

6 GEO. V. No. 13, 1915. *Elections Act.*

## ELECTIONS.

### An Act to Consolidate and Amend the Laws relating to Parliamentary Elections.

6 Geo. V.  
No. 13.

THE  
ELECTIONS  
ACT OF 1915.

[ASSENTED TO 23RD NOVEMBER, 1915.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

#### PART I.—PRELIMINARY.

1 This Act is divided into Parts as follows:—

PART I.—PRELIMINARY ;

PART II.—ADMINISTRATION ;

PART III.—QUALIFICATIONS AND DISQUALIFICATIONS OF ELECTORS ;

PART IV.—ELECTORAL ROLLS ;

PART V.—NOMINATION, POLLING, AND CONDUCT OF ELECTIONS GENERALLY ;

PART VI.—PUBLICATION OF RESULTS AND RETURN OF WRITS ;

PART VII.—SUPPLEMENTAL PROVISIONS ;

PART VIII.—ELECTIONS TRIBUNAL.

PART I.—  
PRELIMINARY.  
Division of  
Act.  
Qland. s. 1.

2 This Act may be cited as “*The Elections Act of 1915.*” Short title.  
Ib. s. 2.

3. Section two of the “*Legislative Assembly Act of 1867,*”\* as amended by section two of “*The Elections Acts Amendment Act of 1913,*”† and “*The Elections Acts, 1885 to 1914,*”‡ are repealed except for the purpose of the completion of the electoral rolls the preparation whereof was begun thereunder, and for the purpose of such completion the said Acts shall continue in force until such rolls have been completed. Repeal.

Any claim made or any act commenced to be done under the said Acts shall and may be dealt with and completed under this Act.

\* 31 Vic. No. 21, *supra*, page 317.

† 4 Geo. V. No. 29, *supra*, page 5867.

‡ 49 Vic. No. 13 and amending Acts, printed as consolidated, *supra*, page 6663.

Interpreta-  
tion clause.  
Qland. ss. 3,  
92, 139.

4. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say:—

Absent vote.	“Absent vote”—A vote cast by an elector as herein prescribed either before polling-day in the presence of the prescribed electoral registrar or returning officer or by postal voting, or on polling-day at a polling-place which is not a polling-place for the district for which the election is held: and the expression “absent voter” shall be construed accordingly;
Absolute majority of votes.	“Absolute majority of votes”—A number of votes greater than one-half of the number of all the electors who vote at an election, exclusive of electors whose ballot-papers are rejected; but the casting vote of the returning officer, when given, shall be included in reckoning an absolute majority of votes;
Assembly.	“Assembly”—The Legislative Assembly of Queensland;
Claim.	“Claim”—A claim by a person to have his name inserted in an electoral roll;
Corrupt practice.	“Corrupt practice”—Any of the following offences—namely, treating, undue influence, bribery, and personation, as defined by “ <i>The Criminal Code</i> ” <sup>*</sup> ;
Election.	“Election”—The election of a member of the Assembly;
Election petition.	“Election petition” or “Petition”—A petition relating to an election, presented as herein provided;
Elections Tribunal.	“Elections Tribunal” or “Tribunal”—The Elections Tribunal hereby constituted;
Elector.	“Elector”—A person named as such in a roll;
Electoral district.	“Electoral district” or “District”—An electoral district appointed by law to return a member to the Assembly: where necessary, the term includes an electoral division of a district;
Electoral registrar.	“Electoral registrar”—The person appointed to perform in the district, or division of the district, the duties imposed on electoral registrars by this Act;

\* 63 Vic. No. 9, Sch. I., *supra*, page 344.

1915.

*Elections Act.*

- “Judge”—The Judge for the time being consti- Judge.  
tuting the Elections Tribunal ;
- “Minister”—The Home Secretary or other Minister Minister.  
charged for the time being with the adminis-  
tration of this Act ;
- “Natural-born subject”—A person born in the Natural-born  
King’s dominions, or whose parents were so subject.  
born ;
- “Naturalised subject”—A person who has been Naturalised  
naturalised in the United Kingdom of Great subject.  
Britain and Ireland, or who is or is deemed to  
be naturalised under the Act of the Common-  
wealth intituled the *Naturalisation Act 1903* ;\*
- “Nomination day”—The day named in the writ Nomination  
for nomination of candidates at an election ; day.
- “Poll clerk”—The officer appointed by the return- Poll clerk.  
ing officer to assist himself or the presiding  
officer in taking the poll at any polling-place ;
- “Postmaster”—The officer or person in charge of Postmaster.  
a post office or post and telegraph office, or  
any person in the employment of the Common-  
wealth authorised by the Postmaster-General  
to act under this Act as a postmaster ;
- “Prescribed”—Prescribed by this Act ; Prescribed.
- “Presiding officer”—The returning officer or other Presiding  
person duly appointed under this Act to officer.  
preside and take the poll at any polling-place  
within the district, or the substitute duly  
appointed of either ;
- “Principal Electoral Officer”—The person ap- Principal  
pointed to perform the duties imposed on the Electoral  
Principal Electoral Officer by this Act : where Officer.  
necessary the term includes his deputy ;
- “Reference”—A question referred to the Tribunal Reference.  
by the Assembly as herein provided ;
- “Registrar”—So far as relates to the Elections Registrar.  
Tribunal, the Registrar of the Supreme Court ;
- “Regulations”—Regulations made under the Regulations.  
authority of this Act ;
- “Returning officer”—The returning officer or Returning  
deputy returning officer appointed for the officer.  
district by the Governor in Council ;

\* No. 11 of 1903.

PART I.—  
PRELIMINARY.*Elections Act.*

6 GEO. V. No. 13,

Roll.	“Roll”—The electoral roll of electors entitled to vote at the election of a member of the Assembly for the district in question ;
Rules of Court.	“Rules of Court”—Rules of Court made under the authority of Part VIII. of this Act ;
Scrutineer.	“Scrutineer”—The person appointed by a candidate to act as scrutineer on his behalf at any polling-place during the election at which he is a candidate ;
Sitting member.	“Sitting member”—The member of the Assembly whose election, or return, or qualification is sought to be affected by the election petition or reference ;
Speaker.	“Speaker”—The Speaker of the Assembly for the time being ;
This Act.	“This Act”—This Act and all Orders in Council, regulations, and Rules of Court made thereunder.

PART II.—  
ADMINISTRATION.

## PART II.—ADMINISTRATION.

Principal  
Electoral  
Officer and  
electoral  
registrars.  
Qland. s. 8.

5. (1.) The Governor in Council may from time to time appoint a Principal Electoral Officer, who, subject to the Minister, shall be responsible for the execution of this Act throughout Queensland :

Provided that the Governor in Council may make arrangements with the Government of the Commonwealth for the appointment of an officer of the Commonwealth to perform the duties of the Principal Electoral Officer under this Act ; and upon the appointment of such officer he shall perform such duties, and shall be deemed to be the Principal Electoral Officer under this Act.

(2.) The Governor in Council may from time to time appoint electoral registrars for each electoral district.

(3.) Every electoral registrar shall perform the duties imposed upon him by this Act under the general supervision and direction of the Principal Electoral Officer.

(4.) The Principal Electoral Officer may from time to time make, or cause to be made, such inquiries and investigations as he thinks necessary for the effectual execution of his duties and the duties of electoral registrars.

He may require any original claim, or a copy of any notice or other document, to be sent to him by any electoral registrar.

1915.

*Elections Act.*PART II.—  
ADMINISTRATION.

(5.) Whenever, by reason of the absence or illness of the Principal Electoral Officer or for other sufficient cause, it is expedient so to do, the Governor in Council may appoint a person to act as the deputy of the Principal Electoral Officer, and during the term of his office such deputy shall have all the powers and authorities and shall perform all the duties of the Principal Electoral Officer, and shall for the purposes of this Act be deemed in all respects to be the Principal Electoral Officer.

(6.) Until other appointment, the officer holding the office of Principal Electoral Registrar at the passing of this Act shall continue in office as Principal Electoral Officer, and shall be deemed to have been appointed to that office under this Act.

All electoral registrars holding office at the passing of this Act shall be deemed to have been appointed under this Act.

**6.** The Governor in Council may from time to time appoint, by commission under his hand and seal, a fit person who is not under the age of twenty-one years to be returning officer for each electoral district. Returning officers. Qland. s. 58.

Every such appointment shall be notified in the *Gazette*.

In case of sickness or other cause preventing any returning officer from acting at any election, the Governor in Council may appoint some person to act as deputy returning officer in his stead.

**7.** Every person appointed a returning officer, presiding officer, or poll clerk under this Act shall, before he enters on the duties of such office, make and subscribe a solemn declaration before some justice in the prescribed form. Returning officers, &c., to make declaration. Ib. s. 59.

And such justice shall transmit the declaration so made by the first convenient opportunity to the Principal Electoral Officer.

**8.** The Governor in Council may from time to time appoint or cancel places for taking the poll for any district. Polling-places. Ib. s. 60.

Every place so appointed or cancelled shall be notified in the *Gazette* :

Provided that no such appointment shall be valid unless such notification is so published three clear days, and no such cancellation shall be valid unless such notification is published six clear days, before the day of nomination for the election.

PART III.—QUALIFICATIONS AND DISQUALIFICATIONS  
OF ELECTORS.Qualification  
of electors.  
N.S.W. s. 20.

9. Subject to the disqualifications hereinafter set out, every person, whether male or female, not under twenty-one years of age—

- (a) (1) Who being a natural-born subject has lived within the Commonwealth of Australia for a continuous period of six months, and has lived in Queensland for a continuous period of three months; or
- (2) Who being a naturalised subject has lived within the Commonwealth of Australia for a continuous period of six months, and has lived in Queensland for a continuous period of three months, both such periods being after naturalisation; and
- (b) Who has lived in an electoral district of Queensland for a continuous period of one month immediately preceding the day on which he makes his claim to be enrolled as an elector for such district; and
- (c) Whose name is on the electoral roll for such district;

shall be qualified as an elector under this Act.

Protection to  
soldiers on  
active  
service.

10. Any person who, at the time immediately prior to his departure from Queensland for service with His Majesty's Forces during the present War, lived in Queensland, shall not, by reason merely of such departure from or any absence from Queensland for the purpose aforesaid, or during a period of twelve months after the conclusion of the War, be prejudiced in any way with respect to enrolment or right to enrolment on any roll, whether such right is immediate or will accrue during such absence; and for all purposes of this Act such person, during the whole of such absence, shall be deemed to live in the electoral district in which he lived immediately prior to his enlistment or his being called out for active service.

Disqualifica-  
tions.  
Qland. s. 5

11. No person who is of unsound mind, and no person attainted of treason, or who has been convicted and is under sentence or subject to be sentenced for any offence punishable under the law of any part of the King's

1915.

*Elections Act.*PART III.—  
QUALIFICA-  
TIONS AND  
DISQUALIFICA-  
TIONS OF  
ELECTORS.

dominions by imprisonment, shall be qualified to be enrolled upon any electoral roll or entitled to vote at any election of Members of the Assembly.

No aboriginal native of Australia, Asia, Africa, or the Islands of the Pacific shall be qualified to be enrolled upon any electoral roll.

**12.** No person shall be entitled to vote more than once at the same election. One adult  
one vote.  
Qland. s. 6.

No person shall be entitled to vote in respect of more than one district notwithstanding the fact that his name is on more than one roll.

## PART IV.—ELECTORAL ROLLS.

PART IV.—  
ELECTORAL  
ROLLS.

**13.** (1.) There shall be an electoral roll of the electors in each electoral district. Electoral  
rolls.  
Comm. s. 27.

(2.) Until new rolls are prepared, the rolls in existence at the passing of this Act shall, as altered from time to time, be the rolls of electors.

**14.** (1.) There shall be annual rolls and quarterly supplemental rolls to the annual rolls. Printing of  
rolls and  
supple-  
mental rolls.  
Ib. ss. 33, 34.

(2.) The annual roll shall contain the names registered up to the thirty-first day of December in each year. The electoral registrar of each district or division shall in each year, on or before the fifth day of January, transmit a list containing names registered to the thirty-first day of December in the preceding year to the Principal Electoral Officer, who, after having received the lists for the whole of each district concerned, shall, with as little delay as possible, cause to be printed a sufficient number of copies of a general alphabetical roll of electors of the whole district numbered in regular arithmetical order. Such rolls shall be known as the "annual rolls."

(3.) The supplemental rolls, setting out additions since the last print, shall be prepared and printed with as little delay as possible after the first days of April, July, and October in each year, and shall be known as the "quarterly rolls."

Furthermore, supplemental rolls of all names entitled under this Act to be added to the rolls since the last print of the annual roll or quarterly roll, as the case may be, shall be prepared, and, wherever practicable, printed

immediately previous to a general election or to a bye-election in any particular district: Provided that if it is not practicable to print such rolls they shall be written or typewritten in the form of rolls.

The names in all supplemental rolls shall be placed together in alphabetical order, and the numbers in each such roll shall follow in consecutive arithmetical order after the numbers in the last preceding annual roll or quarterly roll, as the case may be.

The annual roll, with all supplemental rolls for the district concerned, shall be the existing roll for that district within the meaning and for the purposes of this Act.

(4.) The regulations may provide for the printing as addenda to the quarterly rolls of the names of all persons erased from the roll since the publication of the last preceding quarterly roll.

Form of  
rolls.  
Qland. s. 29.  
Comm.  
ss. 28, 29.

**15.** The rolls shall be in the prescribed form, shall describe the surname, Christian names, sex, place of living, and occupation of each elector, and shall contain such other particulars as are prescribed.

When a district is divided, the names of the electors for each electoral division shall be placed together in alphabetical order so as to form a distinct portion of the roll for the district, herein called a "divisional roll"; each such portion shall be designated by the name assigned to that division, but the numbering in arithmetical order hereinbefore prescribed shall be preserved throughout the roll for the district.

Inspection.  
Comm. s. 35.

**16.** (1.) The last printed copies of each roll shall be open for public inspection, without fee, at such polling-places for the district as the Principal Electoral Officer directs, and shall be obtainable thereat on payment of the price prescribed.

(2.) Every roll kept by an electoral registrar shall be open to public inspection without fee at such times and places as are prescribed.

Statistical  
officers to  
furnish  
information.  
Qland. s. 12.  
Comm. s. 36.

**17.** All members of the police force, all State officers, and all officers of Local Authorities and other local governing bodies, are hereby authorised and required to furnish to the Principal Electoral Officer, and to every electoral registrar, all such information and assistance as he requires to enable him to prepare or revise the rolls.

1915.

*Elections Act.*

When so directed by the Minister, members of the police force or other persons authorised in that behalf shall, under a system of compulsory enrolment, deliver forms of claim and collect them when duly completed, and deliver them to the proper electoral registrars.

**18.** (1.) The Governor may arrange with the Governor-General of the Commonwealth for the preparation, alteration, and revision of the rolls, in any manner consistent with this Act, jointly by the State and the Commonwealth, to the intent that the rolls may be used as electoral rolls for State elections as well as for Commonwealth elections.

Arrangement  
with Com-  
monwealth.  
Comm. s. 30.

(2.) When any such arrangement has been made, the rolls may contain, for the purposes of elections under this Act—

- (a) The names and descriptions of persons who are not entitled to be enrolled thereon as electors of the Commonwealth, provided that it is clearly indicated in the prescribed manner that those persons are not enrolled thereon as Commonwealth electors ;
- (b) Distinguishing marks against the names of persons enrolled as Commonwealth electors, to show that those persons are or are not also enrolled as State electors ;
- (c) Other particulars in addition to the prescribed particulars.

**19.** (1.) Any person qualified to vote, and who would be entitled to vote if his name were upon a roll, shall be entitled to have his name placed upon the roll for the district in which he lives.

Persons  
entitled to  
have their  
names on  
roll.  
Ib. s. 31.

(2.) If the district is divided, his name shall be placed upon the divisional roll for the division in which he lives.

(3.) No person may have his name placed on more than one roll, or upon any roll other than a roll for the district or division in which he lives :

Provided that (notwithstanding anything in this Act)—

- (i.) Any member of the Assembly shall, if he so desires, be entitled to have his name placed on or retained on the roll for the district he represents instead of the roll for the district in which he lives ;

- (ii.) Inmates of charitable institutions shall be deemed, for the purposes of this Act, to live in the electoral districts in which they respectively lived or were enrolled immediately prior to their becoming such inmates.

Addition of  
new names.  
Comm. s. 55.

- 20.** New names may be added to rolls pursuant to—  
(a) Claims ;  
(b) Applications to transfer.

Claims for  
enrolment.  
Ib. s. 56.

- 21.** (1.) Subject to this Act—

- (i.) Where a district is divided any person who would be qualified to vote if his name were upon a roll, and who lives in a division of the district, may claim to have his name placed on the divisional roll for the division ;  
(ii.) Where a district is not divided any person who would be qualified to vote if his name were upon a roll, and who lives in the district, may claim to have his name placed on the roll for the district.

(2.) A claim shall be in the prescribed form, and shall be signed by the claimant and witnessed by any elector who shall record his electorate after his name, or any prescribed person, and shall be sent to the electoral registrar keeping the roll or divisional roll (as the case may be) on which the claimant claims to be enrolled.

Registration  
of claims.  
Ib. s. 57.

**22.** If the claim is in order and the electoral registrar is satisfied that the claimant is entitled to be enrolled, he shall, pursuant to the claim, immediately enter the claimant's name and the particulars relating to him on the proper roll.

Right to  
transfer.  
Comm.  
Ib. ss. 58  
to 61.

**23.** (1.) Any elector whose name is on the roll for any district and who has lived in any other district for one month may make application in the prescribed form to transfer his name to the roll for the district in which he lives.

(2.) Such application shall be signed by the elector and witnessed by any elector who shall record his electorate after his name, or any prescribed person, and sent to the electoral registrar keeping the roll to which the elector's name is to be transferred.

(3.) The electoral registrar shall note on such application the date of its receipt by him, and shall, if it

1915.

*Elections Act.*PART IV.—  
ELECTORAL  
ROLLS.

appears that the applicant is entitled to the transfer, register it by placing the elector's name on the roll, and shall give notice of the transfer to the electoral registrar keeping the roll from which the elector's name has been transferred, who shall thereupon remove the elector's name from that roll.

**24.** (1.) Any elector whose name is on a divisional roll and who lives in another division of the same district may make application in the prescribed form to have his name changed to the divisional roll of the latter division. Change to another divisional roll. Comm. ss. 61A, 61B.

(2.) The application to change shall be signed by the elector and sent to the electoral registrar keeping the divisional roll to which the elector's name is to be changed.

(3.) The electoral registrar shall note on such application the date of its receipt by him, and shall, if it appears that the applicant is entitled to the change, register it by placing the elector's name on the divisional roll, and shall give notice of the change to the electoral registrar keeping the divisional roll from which the elector's name has been changed, who shall thereupon remove the elector's name from that divisional roll.

**25.** (1.) Every person who is entitled to be enrolled as an elector and who is not so enrolled shall fill in and sign, in accordance with this Act, a form of claim for enrolment as an elector, and shall forthwith send or deliver it to the proper electoral registrar. Compulsory enrolment and transfer. Ib. s. 61c.

(2.) Every elector who has ceased to live in the district or division for which he is enrolled, and has changed his place of living to another district or division, shall fill in and sign, in accordance with this Act, a form of claim for transfer or change, as the case requires, and shall forthwith send or deliver it to the proper electoral registrar.

**26.** The regulations shall prescribe anything necessary or convenient to be prescribed for carrying a system of the compulsory enrolment of electors and the compulsory transfer or change of electors from one roll to another roll into effect, and may prescribe penalties not exceeding two pounds for any contravention of any such regulation. Regulations as to compulsory enrolment. Ib. ss. 32A, 61c.

Alteration of  
rolls after  
issue of writ.  
Comm.  
ss. 62, 63.

**27.** In addition to other powers of alteration conferred by this Act, a roll may be altered by the Principal Electoral Officer, or electoral registrar by his direction, as follows :—

(i.) At any time—

(a) By correcting any obvious mistake or omission ;

(b) By changing, on the written application of an elector, the original name or address of the elector to an altered name or address ;

(ii.) At any time after the issue of the writ for an election in a district, and before polling-day—

(c) By striking out the names of dead persons ;

(d) By reinstating any name struck out by mistake as the name of a dead person ;

(e) By striking out the name of any person, on proof that the person has ceased to be qualified for enrolment on that roll and has secured enrolment on another roll ;

(f) On proof of change of place of living from one division to another division of a district, by changing the elector's name to the proper divisional roll for the district.

In the case of an alteration under paragraphs (e) or (f) hereof, notice of the fact shall forthwith be sent to the elector.

Time for  
altering  
rolls.  
Ib. s. 64.

**28.** (1.) Claims for enrolment and applications to transfer or change received by the electoral registrar before the issue of the writ may be registered after the issue of the writ, but otherwise no addition to or alteration of the roll for any district shall be made during the period between the issue of the writ for an election in the district and the close of the polling at the election, except under the last preceding section.

Time at  
which writs  
deemed to be  
issued.

(2.) For the purposes of this section a writ shall be deemed to have been issued at six o'clock in the afternoon of the day on which the writ was issued.

Alterations  
to be  
initialled.  
Ib. s. 65.

**29.** All alterations in a roll shall be made in such a manner that the original entry shall not be obliterated, and the reason for the alteration and the date thereof shall be set against the alteration, together with the initials of the officer making the alteration.

1915.

*Elections Act.*PART IV.—  
ELECTORAL  
ROLLS.

**30.** (1.) Every registrar of births, deaths, and marriages shall in each month furnish to the electoral registrar of every electoral district any part whereof is comprised in the registry district for which he is such registrar of births, deaths, and marriages, a correct list of all deaths of adult males and females of twenty-one years and upwards which have been registered by him during the last preceding month.

Registrar to  
furnish list  
of deaths  
monthly.  
Qland. s. 43.

If the electoral registrar, upon receipt of any such list, finds that the name of an elector therein contained is not enrolled on any roll kept by him, he shall forthwith send particulars of the death of such elector to the Principal Electoral Officer, and the Principal Electoral Officer shall make due inquiry with respect to all such electors, and shall, as soon as may be, furnish to the proper electoral registrar a list of all deaths of such electors who are enrolled on any roll kept by such electoral registrar, and such electoral registrar shall deal with such list in the same way as if it were a list furnished by a registrar of births, deaths, and marriages.

From the lists so received, each electoral registrar shall compile a list of electors who appear to be dead, and shall cause a copy of such list to be published once at least in some newspaper circulating in the district, and shall expose a copy of such list to public view at his office and at such post offices and other places as the Principal Electoral Officer may direct; and such list shall remain so exposed for forty days.

The electoral registrar shall also, forthwith after the receipt of each such list from the registrar of births, deaths, and marriages, send by post to every elector mentioned therein, at his usual or last known place of abode, a notice informing him that it is intended to omit his name from the roll.

After the expiration of the said forty days, the electoral registrar shall strike off the roll the name of every elector named in such list, and who appears to be dead.

(2.) Every registrar of births, deaths, and marriages shall, during the month of August in each year, furnish to the electoral registrars of every electoral district any part whereof is comprised in the registry district for which he is such registrar of births, deaths, and marriages, a correct list of all marriages of female electors, which have been registered by him during the twelve months then past,

Registrar to  
furnish  
marriages.  
Ib. s. 11.

and the electoral registrar shall make the necessary alterations in the roll.

Gaolers to  
notify  
convictions.

(3.) The Comptroller of Prisons shall in each month furnish to the Principal Electoral Registrar, in the prescribed form, a return of persons who during the preceding month have been convicted of offences convictions of which disqualify or may disqualify such persons under this Act as electors.

Names on  
roll may be  
objected to.  
Comm.  
ss. 67, 69.

**31.** (1.) Any name on a roll may be objected to by objection in writing lodged with or made by the electoral registrar:

Provided that a sum of five shillings shall be deposited in respect of each objection lodged by any person other than the electoral registrar or a prescribed officer, to be forfeited to His Majesty if the objection is held by the electoral registrar to be frivolous.

(2.) The objection shall be in the prescribed form, and be signed by an elector registered on the same roll, or by the electoral registrar or by a prescribed officer.

(3.) It is the duty of each electoral registrar to lodge an objection in writing, setting forth the grounds of such objection in respect of any name which he has reason to believe ought not to be retained on the roll.

Notice of  
objection.  
Ib. ss. 70, 71.

**32.** (1.) The electoral registrar shall forthwith give notice of the objection to the person objected to, together with the name of the objector.

The notice shall be in the prescribed form, and be served by posting it to the last-known place of abode of the person objected to, or if that is not known then to the place of living appearing on the roll.

The regulations may provide for the publication and advertisement of lists of persons objected to and of objectors.

Action where  
objection by  
officer is bad.

(2.) Where the electoral registrar is satisfied that the ground of objection stated in any objection lodged by a prescribed officer is not a good ground of objection, he may dismiss the objection, in which case no notice of the objection need be given to the person objected to.

(3.) An objection on the ground that a person does not live in a district for which he is enrolled shall be deemed not to be good unless it alleges that the person objected to—

(a) Does not live in the district, and does not live in Queensland; or

1915.

*Elections Act.*

(b) Does not live in the district, and has obtained enrolment for some other district.

(4.) The person objected to may, orally or in writing, in the prescribed manner, answer the objection. Answer to objection.

**33.** (1.) On receipt of the answer of the person objected to, or after the expiration of forty-two days from the posting of the notice, or, if lists of persons objected to are published or advertised pursuant to the regulations after the expiration of a period fixed by the regulations, the electoral registrar shall determine the objection, and, if it appears that the person objected to is not qualified to be enrolled on the roll, shall strike out his name. Determination of objection. Comm. s. 72.

(2.) If any objection is held by the electoral registrar to be frivolous, the person objected to shall be entitled to a reasonable allowance not exceeding five pounds, and the electoral registrar shall award such sum to be paid by the objector, and in default of payment such sum may be recovered by the electoral registrar in any civil court as a debt due by the objector, and when so recovered shall be paid to the person objected to.

**34.** (1.) Any person—

(a) Who has made and sent in a claim to be enrolled upon a roll, or an application for transfer or change, and who has not been enrolled pursuant to the claim or application; Appeal to court of petty sessions. Ib. s. 73.

or  
(b) Whose name has been struck off a roll by the electoral registrar upon an objection,

may in manner prescribed make application to a court of petty sessions, constituted by a police magistrate or by two or more justices of the peace authorised by the Governor in Council to hear and determine electoral appeals, for an order directing that his name may be enrolled or restored to the roll.

(2.) Where an objection has been determined by the electoral registrar adversely to the person objecting, that person (not being an officer) may in manner prescribed apply to a court of petty sessions, constituted as above mentioned, for an order sustaining the objection.

(3.) Where the application has reference to the decision of the electoral registrar upon an objection, the applicant shall, as prescribed, serve the objector or the person objected to (as the case may be) with notice of

the application, and the person so served may appear, or may in writing authorise any person to appear on his behalf, to resist the application.

(4.) The court may hear and determine any application under this section, and make such order as it thinks fit as to the costs of the application, which may be recovered in the same manner as the costs of any other proceeding before the court.

(5.) The clerk of petty sessions shall send by post to the electoral registrar a certified copy of the order of the court, and it shall be the duty of the electoral registrar to make such entries (if any) upon the roll as are necessary to give effect to the order.

(6.) Proceedings under this section shall be deemed to be proceedings as for a breach of duty, and "*The Justices Acts, 1886 to 1909*,"\* shall apply accordingly.

Roll when to  
be conclusive  
roll.  
Qland. s. 52.

**35.** The existing roll, with all corrections and erasures thereof or therefrom made pursuant to this Act, shall be the roll of electors entitled to vote in the district at all elections and shall, except as by this section is provided, be conclusive evidence of the title of every person therein named to vote :

Provided as follows :—

- (a) No female elector shall be disqualified from voting under the name appearing on the roll merely because she has changed her surname upon marriage ;
- (b) Any person whose name appears on the roll at the time of an election and who is then subject to any of the disqualifications mentioned in section eleven of this Act shall be disqualified from voting ;
- (c) Any elector who claims to vote, if still living in a district, shall be entitled to vote notwithstanding that he has changed his place of living to another in the same district ;
- (d) An elector who has changed his place of living from the district for which he is enrolled to another district shall not on that account be disqualified from voting at an election for the district for which he is enrolled until his name has been enrolled for some other district :

\* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

1915.

*Elections Act.*PART IV.—  
ELECTORAL  
ROLLS.

- (e) When any person claims a vote at an election and it is found that, in consequence of mistaken identity and through no fault of himself, his name has been erased from the roll for that district, such person, upon making a statutory declaration that he is the person whose name has been wrongly erased, shall be permitted to vote ;
- (f) Notwithstanding anything implied by the expression “conclusive evidence” or anything contained in this or any other enactment, the vote of any person whose name appears to have been placed upon the roll for a district as the direct or indirect result of any false statement made by such person in any claim or other proceeding precedent to enrolment may be disallowed by the Elections Tribunal.

PART V.—  
NOMINATION,  
POLLING, AND  
CONDUCT OF  
ELECTIONS  
GENERALLY.PART V.—NOMINATION, POLLING, AND CONDUCT OF  
ELECTIONS GENERALLY.

36. (1.) Writs for the election of members to serve in the Assembly shall be sent to the Minister directed to the proper returning officers respectively :

Writs  
directed to  
returning  
officers.  
Qland. s. 61.

Provided that upon the issue of a writ by the Speaker in the case of a bye-election the writ shall be sent by the Speaker direct to the proper returning officer.

- (2.) In every such writ shall be named—
- (a) The nomination day and place of nomination, and
- (b) The day for taking the poll at the several polling-places in the event of the election being contested, and
- (c) The day on which the writ is returnable to the Governor or Speaker as the case may be.

(3.) Subject to this Act, the writ shall be returned not later than the day named therein, notwithstanding the fact that any absent votes have not then been received, examined, and counted by the returning officer.

(4.) Writs shall be in the prescribed form.

37. In the case of a general election all elections shall be held on the same day, and that day shall be a Saturday.

Day of  
a general  
elections.

**38.** The returning officer shall—

- (a) Endorse upon the writ the day on which he receives it; and
- (b) Forthwith give public notice of the nomination day and place of nomination and of the day of polling, and of the several polling-places, and of the date up to which additional polling-places may be appointed or existing polling-places may be cancelled, and of a convenient place within the district, to be named by the returning officer, as the place of nomination at which he will be present between the hours of nine o'clock in the morning and twelve o'clock noon on nomination day to receive nomination papers; and
- (c) As soon as possible give public notice of any polling-place appointed after the issue of the writ.

Nomination and polling days to be publicly notified.  
Qland. s. 62.

Qualification of a candidate.

**39.** Any person, whether male or female, who under this Act is qualified to be enrolled for any electoral district in Queensland, shall be qualified to be nominated as a candidate and to be elected a member of the Legislative Assembly of Queensland for any electoral district in Queensland.

Uncertified insolvent incapable of being nominated or elected.  
Ib. s. 66.

**40.** Any person who has been adjudged insolvent, or has had his affairs liquidated by arrangement under any Act in force relating to insolvency, shall be incapable of being nominated or elected unless the adjudication or liquidation has been annulled, or he has obtained his certificate of discharge as an insolvent, or the creditors who have proved their debts under the insolvency or in the liquidation have been fully paid or satisfied.

How person may become candidate.  
Ib. s. 63.

**41.** (1.) In order that any person may be or become a candidate, he shall be nominated by not less than six persons entitled to vote at the election, in manner following:—

At any place or time before noon on nomination day, there shall be delivered to the returning officer, who shall if required give a receipt for the same, a nomination paper in the prescribed form naming such person as a candidate and signed by the persons nominating him.

Such person or some person on his behalf shall, at the time of the delivery of the nomination paper, pay

1915.

*Elections Act.*PART V.—  
NOMINATION,  
POLLING, AND  
CONDUCT OF  
ELECTIONS  
GENERALLY.

to the returning officer, in sterling money or bank notes or by a cheque drawn by a bank on itself, the sum of twenty pounds to be dealt with as hereinafter provided.

(2.) No person who is not so nominated, or by or for whom or on whose behalf such payment is not made, shall be or be deemed to be a candidate.

(3.) No nomination paper shall be rejected for any mere formal defect or error therein, if the returning officer is satisfied that the provisions of this Act have been substantially complied with.

Nomination  
not to be  
avoided for  
mere  
informality.

42. (1.) If the returning officer is satisfied that the provisions of this Act with respect to a nomination paper have been substantially complied with, he shall make and sign at the foot of the nomination paper a certificate in the prescribed form.

Certificate of  
returning  
officer.  
Qland. s. 64.

(2.) Such certificate shall not be construed to qualify any person to be a candidate or to sign a nomination paper who is not qualified to be a candidate or to sign the same, or to validate any signature thereto which is false or forged.

43. Immediately on the receipt of a nomination paper the returning officer shall post a copy thereof outside the nearest police office, or if there is none at the place of nomination then in some conspicuous place there.

Copy of  
nomination  
paper to be  
posted up.  
Ib. s. 65.

44. If only one person is duly nominated as a candidate, the returning officer shall, on nomination day or as soon thereafter as is practicable, publicly notify, by advertisement in some newspaper published in or generally circulating in the district, the name of the candidate who has been duly elected, and make his return accordingly.

Only one  
nomination.  
Ib. s. 67.

45. (1.) If two or more persons are duly nominated as candidates, then for deciding between such candidates a poll shall take place on the day named in the writ at the several polling-places for the district.

What to be  
done if more  
nominated  
than to be  
elected.  
Ib. s. 68.

(2.) The returning officer shall—

(a) Forthwith post in some conspicuous position at the place of nomination the names of the persons who have been duly nominated as candidates, and that a poll will be so taken; and

(b) Publish an announcement to the like effect in some newspaper published in or generally circulating in the district.

Retirement  
of nominated  
candidate  
before poll.  
Qland. s. 69.

**46.** (1.) If any candidate desires to retire from his candidature he may, not later than seventy-two hours after the hour of noon on nomination day, sign and deliver to the returning officer a notice in the prescribed form.

(2.) The returning officer, on the receipt of such notice, shall omit his name from the ballot-papers to be used at the election, or, if any of such papers have been printed, shall erase his name therefrom.

(3.) The person so retiring shall not be capable of being elected at the election, and if the number of candidates is by his retirement reduced to one then the returning officer shall forthwith declare the remaining candidate to be duly elected.

(4.) The returning officer shall make known as publicly as possible, by advertisement or otherwise, the fact of the retirement of such candidate.

Death of  
candidate.  
Ib. s. 70.

**47.** If at any time after nomination day and before polling day any candidate dies, the returning officer shall forthwith report the fact of such death in writing to the Minister, and, where necessary, may do so under "*The Telegraphic Messages Act of 1872.*"\*

Thereupon the writ shall be deemed to be vacated, and a new writ shall be issued, and all proceedings in connection with the election shall be had and taken anew.

Destination  
of money  
paid on  
nomination.  
Ib. s. 71.

**48.** (1.) When a poll takes place, the moneys paid to the returning officer as aforesaid by all such candidates as do not receive at the poll a number of votes equal at least to one fifth part of the votes received by the successful candidate shall be forfeited to His Majesty, and be paid over by the returning officer to the Treasurer, and shall form part of the Consolidated Revenue Fund.

(2.) After every election the returning officer shall pay to each of the candidates who has duly retired from his candidature, or who has been returned without a poll, or who has received a number of votes equal at least to such fifth part whether he is declared elected or not, all moneys so paid by or for him :

\* 36 Vic. No. 13, *supra*, page 745.

1915.

*Elections Act.*PART V.—  
NOMINATION,  
POLLING, AND  
CONDUCT OF  
ELECTIONS  
GENERALLY.

(3.) In computing the number of votes for the purposes of this section no votes shall in any case be reckoned other than votes for a candidate in the first instance.

**49** For taking the poll the returning officer shall cause polling-booths to be provided or rooms to be hired and used as booths in one place at each polling-place as occasion may require.

Booths to be  
provided.  
Qland. s. 72.

**50.** (1.) The returning officer—

- (a) May preside at one polling-place within or belonging to his district; and
- (b) Shall by writing under his hand appoint presiding officers to take the poll at all polling-places except that at which he presides and except at those central polling-places for which assistant returning officers have been appointed as hereinafter provided; and
- (c) Shall supply a copy of the roll certified by him under his hand to each presiding officer and each candidate.

Returning  
officer to  
provide  
presiding  
officers.  
Ib. s. 73.

(2.) When a larger number of electors is likely to vote at a polling-place than can conveniently vote in the same booth, the returning officer may appoint two or more booths at that polling-place, and shall in such case appoint presiding officers to take the poll at the booths at which he does not himself preside.

Several  
polling-  
booths at the  
same polling-  
place.

All the provisions of this Act relating to presiding officers apply to presiding officers presiding at such booths.

(3.) The returning officer, and each presiding officer with the approval of the returning officer, may in like manner appoint a poll clerk or poll clerks to assist him in taking the poll.

(4.) If any returning officer or other presiding officer is prevented from attendance by illness or other sufficient cause, he may appoint by writing under his hand a substitute to act for him, who shall have full power and authority to do all things required by this Act to be done by his principal, but at his polling-place only.

(5.) If by reason of the absence of the presiding officer the poll is not taken at any polling-place, the election shall not be therefore void, but it shall be lawful for the returning officer to appoint another day not later than thirty-six days from the day named in the writ for taking

Absence of  
presiding  
officer  
not to  
invalidate  
election.

the poll at such polling-place, of which appointment due notice shall be publicly given, and the poll shall be taken accordingly and be deemed to have been taken on the day first appointed.

(6.) No person shall be appointed to act as presiding officer, or as substitute for the returning officer or a presiding officer, or as poll clerk, who is under the age of twenty-one years.

Ballot-  
papers to be  
printed and  
furnished.  
Qland. s. 74.

**51.** (1.) Forthwith after a poll stands appointed, the returning officer shall—

- (a) Cause to be printed ballot-papers containing the candidates' names in alphabetical order according to the prescribed form; and
- (b) Supply to the presiding officer of each polling-place so many of such ballot-papers as are fully equal to the number of electors likely to vote at such polling-place; and
- (c) Keep for himself a like sufficient number for the polling-place at which he is to preside.

(2.) If two candidates have the same surname and christian name, the residence and description of each candidate shall be added to his name on the ballot-paper.

(3.) Each ballot-paper—

- (a) Shall bear in the right-hand upper corner of the face thereof a number which shall be machine-printed or otherwise legibly marked thereon; and
- (b) Shall be so numbered in regular arithmetical sequence beginning with 1, so that no two or more of them shall bear the same number.

Such number is hereinafter referred to as the ballot-number.

Proceedings  
at the poll.  
Ib. s. 77.

**52.** At every poll the voting shall commence at eight o'clock in the forenoon and shall finally close at six o'clock in the afternoon of the same day, unless adjourned by reason of riot or other interruption.

Appointment  
of  
scrutineers.  
Ib. s. 78.

**53.** Each candidate may, by writing under his hand, appoint a scrutineer or scrutineers at each booth.

Every person so appointed scrutineer shall upon his appointment make and subscribe before the presiding officer a solemn declaration in the prescribed form.

1915.

*Elections Act.*PART V.—  
NOMINATION,  
POLLING, AND  
CONDUCT OF  
ELECTIONS  
GENERALLY.

**54.** The presiding officer shall provide a locked box, of which he shall keep the key, with a cleft or opening in such box capable of receiving the folded ballot-papers.

Presiding  
officer to  
provide  
ballot box  
and papers.  
Qland. s. 76.

This box shall be opened to be inspected by the poll clerks, candidates, and scrutineers previously to its being locked for receiving the ballot-papers, and shall stand upon the table at which the presiding officer presides.

**55.** (1.) At every booth there shall be a compartment or compartments provided with all necessary materials to enable the electors to mark the ballot-papers.

Returning  
officer to  
provide a  
ballot-room.  
Ib. s. 75.

No person shall be entitled to be present in such booth other than the presiding officer, the poll clerk, the candidates, and the scrutineers of the several candidates, and the electors who for the time are voting.

(2.) The presiding officer or poll clerk may summon to his assistance in such booth any member of the police force for the purpose of preserving the public peace or preventing any breach thereof, and for removing out of such booth any person who in his opinion is obstructing the polling or wilfully violating this Act.

**56.** (1.) The presiding officer may if he thinks fit, and shall if required by any candidate or scrutineer, put to any person claiming to be an elector, before he votes and not afterwards, the following questions or either of them:—

Questions to  
voters.  
Ib. ss. 79, 80.

1. Are you the same person whose name appears as (A.B., number —) in the roll for this electoral district ?
2. Have you already voted, either here or elsewhere, at the present election for this electoral district ?
3. Are you disqualified from voting ?

(2.) No person required to answer such questions, or any of them, shall be permitted to vote until he has answered the same in writing signed by him to the satisfaction of the presiding officer, and in such a manner as to show that he is entitled to vote.

(3.) If any person having been required to answer all or any of the questions hereinbefore prescribed makes a false answer in any material particular and thereafter votes, his vote may be disallowed by the Elections Tribunal.

Consequence  
of answers.

PART V.—  
NOMINATION,  
POLLING, AND  
CONDUCT OF  
ELECTIONS  
GENERALLY.

*Elections Act.*

6 GEO. V. No. 13,

Declaration  
against  
bribery.  
Qland.  
s. 82.

**57.** The presiding officer may if he thinks fit, and shall if called upon so to do by any candidate or scrutineer, require any person claiming to vote to make a solemn declaration against bribery in the prescribed form, and any person refusing to take such declaration shall not be entitled to vote.

No other  
question or  
declaration  
necessary.  
Ib. s. 83.

**58.** No elector shall at any election be required to answer any questions or to take any oath, affirmation, or declaration, except as herein provided.

No person claiming to vote at any election shall be excluded from voting except by reason of its appearing to the presiding officer, upon putting the prescribed questions or any of them, that he is not the person whose name appears on the roll, or that he has previously voted at the same election, or that he is otherwise not entitled to vote, or except by reason of such person refusing to answer any of such questions or to make any prescribed declaration.

Ballot-  
papers to be  
given to  
electors.  
Ib. s. 84.  
And number  
to be  
concealed.

**59.** (1.) When an elector has satisfied the presiding officer that he is entitled to vote at the election the presiding officer shall deliver to him a ballot-paper.

(2.) The presiding officer shall, before delivery of the ballot-paper to the elector—

(a) Fold down the right-hand upper corner of the paper so as to entirely conceal the ballot-number; and

(b) Securely fasten the fold with gum or otherwise in such a manner that the number cannot be discovered without unfastening the fold.

(3.) Any returning officer or presiding officer who fails to comply with this section shall be deemed to have been guilty of wilful neglect of duty.

Elector's  
name to be  
marked on  
roll.  
Ib. s. 85.

**60.** (1.) Upon delivery of the ballot-paper to the elector, the presiding officer or poll clerk shall, upon the copy of the roll in use by him, or, in the case of a presiding officer other than the returning officer, upon the certified copy of the roll supplied to him by the returning officer, write the ballot-number of such ballot-paper against the name of the elector.

(2.) The presiding officer or poll clerk shall use ink or pencil of uniform colour in writing the ballot-number on the roll.

(3.) The ballot-number so written on the roll shall be *primâ facie* evidence of the identity of the person to whom

1915.

*Elections Act.*

the ballot-paper is delivered with the elector against whose name on the roll it is so written, and of the fact that such elector voted at the election.

(4.) The ballot-number written against the name of an elector on the roll shall, upon a scrutiny, be conclusive evidence that the ballot-paper bearing the same ballot-number was delivered to and used by the person who claimed to vote as the person against whose name such number is written in the roll.

61. (1.) The elector having received a ballot-paper shall, in one of the compartments provided for the purpose, subject to the provisions relating to contingent voting, mark his ballot-paper by making a cross in the square opposite the name of the candidate for whom he votes in the first instance and shall make no other mark or writing thereon, and shall forthwith fold up the paper in such manner as will conceal the names of the candidates, and deposit it in the ballot-box in the presence of the presiding officer. Mode of voting. Qland. s. 86.

(2.) While an elector is in a compartment preparing his ballot-paper no other person shall be allowed in such compartment :

Provided that if any elector is unable to read, or is blind, he shall signify the fact to the presiding officer, who shall thereupon, in the booth, and in the presence and sight of the poll clerks, candidates, and scrutineers, subject to the provisions relating to contingent voting mark the ballot-paper by making a cross in the square opposite the name of the candidate for whom the elector says that he desires to vote in the first instance; and the presiding officer shall, if requested by the elector, state the names of the candidates and the political party in whose interest each or any of them is standing.

(3.) No elector shall take out of the booth any ballot-paper either before or after the same has been so marked :

Provided that, before the elector has deposited the original ballot-paper issued to him in the ballot-box, the presiding officer may, if he thinks fit, issue a second or duplicate ballot-paper to such elector in substitution for the original ballot-paper if the original ballot-paper has been accidentally defaced.

But the elector shall first make a declaration before the presiding officer that the original ballot-paper

has been so accidentally defaced and that he has not already voted at the election, and shall deliver to the presiding officer the original ballot-paper.

The presiding officer shall, before the issue of the second or duplicate ballot-paper, securely fasten the original ballot-paper by means of gum or otherwise to the declaration, and shall set the same aside for separate custody.

Duty of  
returning  
officer when  
a second vote  
is tendered  
for one name.

Qland. s. 87.

**62.** (1.) If at any booth a ballot-paper has been delivered to any person who has claimed to vote as an elector, and afterwards another person claims to vote at such booth as being the person in whose name such first-mentioned person received the ballot-paper, the presiding officer shall put to the person so secondly claiming to vote the prescribed questions, and such person and such ballot-paper shall be dealt with in all respects in the same manner as any other person claiming to vote, but his ballot-paper shall not be deposited in the ballot-box or allowed by the presiding officer, but shall be set aside for separate custody.

(2.) Every such ballot-paper shall be dealt with as hereinafter provided, and may be allowed and counted by order of the Elections Tribunal on a scrutiny, but not otherwise.

Compulsory  
voting.  
Ib. s. 88.

**63.** (1.) It shall be the duty of every elector to record his vote at every election held for the electoral district on the roll of which he is enrolled.

But this provision shall not be construed to compel any elector to vote contingently under the provisions in that behalf hereinafter contained.

(2.) It shall be the duty of the returning officer at the close of every election to compile a list of the names and descriptions, as appear by the roll, of the electors who have not voted at the election for which he is the returning officer, and to certify such list by statutory declaration under his hand.

Such list so certified shall in all proceedings be *primâ facie* evidence of the contents thereof and of the fact that the electors whose names appear therein did not vote at the said election.

(3.) Within seven days after the close of the said election, the returning officer shall send by post to each elector whose name appears on such list, at the address therein mentioned, a notice in the prescribed form.

1915.

*Elections Act.*PART V.—  
NOMINATION,  
POLLING, AND  
CONDUCT OF  
ELECTIONS  
GENERALLY.

The returning officer, before sending such notice, shall insert therein the name of the elector, and his number on the roll, and a date on which such notice is to be in the hands of the returning officer.

(4.) Every elector to whom such notice has been sent shall on the prescribed form at the foot of the said notice state the true reason why he failed so to vote, and sign the same, and post the same so as to reach the said returning officer not later than the date in the said notice mentioned.

The returning officer shall, after making all reasonable inquiries, decide whether such reason is a valid and sufficient excuse for such failure to vote, and shall write his decision on the said notice.

(5.) The returning officer, within two months after the date in the said notice mentioned, shall send to the Principal Electoral Officer the certified list mentioned in subsection two hereof and all the forms of notice received by him from electors as mentioned in the last preceding subsection, together with a list of electors, certified by statutory declaration under his hand, to whom the said form was posted and by whom it has not been duly returned properly filled up and signed.

The last-mentioned list so certified shall in all legal proceedings be *primâ facie* evidence of the contents thereof and of the fact that the electors whose names appear therein did not vote at the said election, and having received the said notice did not comply with the requisitions thereof.

(6.) Every elector who—

- (a) Failed to vote at the election without a valid and sufficient excuse for such failure ; or
- (b) On receipt of such notice, fails to fill up and sign and post the same to the returning officer so as to reach him within the time prescribed ; or
- (c) States in such form a false reason for not voting ;

shall for each such offence be liable, on the complaint of the Principal Electoral Officer, to a penalty not exceeding two pounds.

64. When a poll is taken a candidate shall not, except as hereinafter provided, be elected as a member unless he receives an absolute majority of votes.

Members must obtain absolute majority of votes polled.  
Qland. s. 93.

Electors may  
give  
contingent  
votes.  
Qland. s. 94.

**65.** (1.) Notwithstanding anything in this Act contained, an elector may, if he thinks fit, indicate on his ballot-paper any candidate or candidates (other than the candidate for whom he votes in the first instance) for whom he desires his vote to be counted in the event of the candidate for whom he votes in the first instance not receiving an absolute majority of votes; and, if he indicates more than one such candidate, may indicate the order in which he desires that his vote shall be counted for any such candidate.

(2.) Such indication shall be made by writing the figures 2, 3, or any subsequent number in the square or squares opposite to the name or names of the candidate or candidates for whom he does not vote in the first instance, but for whom he desires his vote to be so counted, and the order indicated by such numbers shall be taken to be the order in which he desires his vote to be so counted.

(3.) No mere irregularity or error in writing such figures shall invalidate the vote given by an elector in favour of any candidate in the first instance if the ballot-paper of such elector is otherwise in order.

Counting  
contingent  
vote.  
Ib. s. 95.

**66.** (1.) If there is no candidate who receives an absolute majority of votes, all the candidates except those two who receive the greatest number of votes shall be deemed defeated candidates.

(2.) The vote of every elector who has voted for a defeated candidate shall be counted for that one (if any) of the remaining two candidates for whom he has indicated in the manner aforesaid that he desires his vote to be counted.

(3.) The votes so counted for such remaining candidates shall be added to the votes originally given for them, and the candidate who receives the greatest number of votes, including the votes so counted (if any), shall be elected.

Casting vote.  
Ib. s. 96.

**67.** When two or more candidates, neither of whom is elected, receive an equal number of votes in the first instance, for the purpose of determining who shall be deemed the defeated candidate or candidates the returning officer shall decide by his casting vote which of them has the greatest number of votes.

1915.

*Elections Act.*PART V.—  
NOMINATION,  
POLLING, AND  
CONDUCT OF  
ELECTIONS  
GENERALLY.Ballot-paper  
not to be  
rejected for  
certain  
informalities.  
Qland. s. 97.

68. If an elector writes a figure opposite to the name of a candidate for whom he votes in the first instance, the ballot-paper shall not be rejected for that reason only.

69. (1.) Subject to this Act, any elector who on polling-day during the hours set apart for polling is absent from the district for which he is enrolled may vote as an absent voter at any polling-place which is not a polling-place for that district.

Absent  
voters at  
outside  
polling-  
places.

(2.) In every such case the presiding officer at such polling-place, before giving a ballot-paper to the person claiming to vote, shall put to him the questions following, that is to say—

- (i.) For what electoral district are you qualified to vote ?
- (ii.) What is your name (surname and christian name in full) ?
- (iii.) What is your occupation ?
- (iv.) Where is your usual place of living ?
- (v.) What is your present address ?

The presiding officer shall then endorse the answers to such questions upon an envelope, and the person claiming to vote shall sign the same, and the presiding officer shall witness such signature.

(3.) Such endorsement shall be in the prescribed form.

(4.) No person so claiming to vote shall receive a ballot-paper unless or until he has answered the said questions to the satisfaction of the presiding officer, and has signed the said envelope.

(5.) The presiding officer shall then, as in other cases, give a ballot-paper to the person claiming to vote, but shall retain the envelope so endorsed.

Every such ballot-paper shall be of such material and opacity that the voter may effectually conceal the name of the person for whom he has voted, and shall be in the prescribed form.

(6.) The voter shall record his vote by writing on the second page of the ballot-paper the name of the candidate for whom he votes.

For the purposes of contingent voting the voter may write the names of the candidates or of any candidates upon the ballot-paper, one below the other, and the order in which the voter has so written them shall denote the order in which the voter desires the vote or votes to be counted.

(7.) When the voter has voted he shall not himself place the ballot-paper in the ballot-box, but shall deliver the same, folded up, to the presiding officer, who, without unfolding the same, shall, in the presence of the voter, place the ballot-paper in the said envelope, and after securely fastening the envelope shall place it aside for separate custody.

(8.) Any person who wilfully makes a false answer to any of the questions put to him under this section, or signs his name upon any envelope, any part of the endorsement of which is to his knowledge false, shall be liable to a penalty not exceeding fifty pounds.

Duty of  
presiding  
officer.

(9.) Immediately at the close of the poll, the presiding officer shall sort all envelopes containing absent votes under their proper electoral districts, and shall enclose all such envelopes for the same district in an outer envelope, and transmit the same, properly addressed, by post or otherwise, to the several returning officers of the districts for which the absent voters are respectively enrolled. He shall also inform each such returning officer, if necessary by telegram, of the number of persons who voted as absent voters for the district concerned.

Duty of  
returning  
officer.

(10.) When the returning officer receives from presiding officers in other districts the parcels of envelopes containing absent votes, he shall, before in any way unfastening any envelopes immediately containing ballot-papers, verify the right to vote of the several voters claiming to vote for his district by comparing the endorsements upon the envelopes with the roll for his district in use at the election. If the right of any person to vote is thereby established to his satisfaction, he shall mark upon the envelope the number of the voter appearing on the roll, and shall, without then unfolding the ballot-paper, mark the same number upon the right-hand upper corner of the front page of the ballot-paper and fold it down and secure it with gum so that the number is effectually concealed, and shall

1915.

*Elections Act.*PART V.—  
NOMINATION,  
POLLING, AND  
CONDUCT OF  
ELECTIONS  
GENERALLY.

place such ballot-paper in a ballot-box. He shall set aside for separate custody the envelopes immediately containing the ballot-papers.

If the right to vote is not thereby established, he shall reject the vote, but shall not unfasten the envelope. He shall set the same aside for separate custody.

No such ballot-paper shall be allowed at the scrutiny which is not enclosed in an envelope endorsed with the absent voter's declaration.

When the returning officer has dealt with all the envelopes in every packet which has been delivered on the same day, he shall open the ballot-box and count the votes as in other cases; and shall so proceed from day to day until all the ballot-papers have come to hand, or until the day on which no further ballot-papers are to be counted.

(11.) A signature upon an envelope endorsed with an absent voter's declaration purporting to be the signature of a voter shall, upon a scrutiny, without further proof, be *primâ facie* evidence that such voter voted at the election as an absent voter. Evidence of voter's signature, &c.

The number marked upon the absent voter's envelope and ballot-paper as aforesaid shall, upon a scrutiny, be *primâ facie* evidence that such ballot-paper was issued to and used by the person to whom the same number is assigned upon the roll in use at the election.

70. (1.) An elector who has reason to believe that he will not on polling-day be within any district may, subject to the regulations, be permitted to vote at any time after the issue of the writ and before polling-day, if he attends before any prescribed electoral registrar or returning officer and makes a declaration in accordance with the prescribed form. Voting before polling-day by electors who will be absent on polling-day. Comm. s. 139.

(2.) The ballot-paper to be used shall be in accordance with the prescribed form, but it shall not be necessary that the candidates' names be printed thereon, or that all the candidates' names appear thereon.

(3.) The vote of the elector shall be marked on the ballot-paper in the presence of the electoral registrar or returning officer, but so that the electoral registrar or returning officer cannot see the vote, unless otherwise prescribed in the case of any elector who is so physically incapacitated or illiterate that he is unable to vote without assistance.

(4.) The vote having been marked on the ballot-paper, the ballot-paper shall be folded by the elector so as to conceal the vote and shall be handed to the electoral registrar or returning officer, who shall thereupon in the presence of the elector without unfolding it place it in an envelope, which he shall securely fasten and, if he is the returning officer for the district for which the elector is voting, retain and deal with as herein prescribed, or, if he is not such returning officer, he shall forthwith forward the same to such returning officer.

(5.) The regulations may prescribe any matters (not inconsistent with this Act) necessary or convenient to be prescribed for carrying this section into effect, and in particular may prescribe the grounds on which ballot-papers under this section are to be rejected as informal.

Postal voting  
in case of  
sickness.  
Qland. ss. 98  
to 107.

71. (1.) Any elector who, by reason of ill health, will be unable on polling day to attend at a polling-place to vote, may, after the issue of the writ for the election and before polling-day, apply in the prescribed form to the returning officer for a postal vote certificate.

No such application by a voter who cannot write his or her own name shall be granted.

The application must be signed by the applicant with his or her own hand, in the presence of and must be declared before and attested by the returning officer or any elector of the same district for which the applicant is enrolled, or by a duly qualified medical practitioner or qualified nurse who is in attendance on such elector, each of whom is hereby authorised to take such declaration.

Grant and  
form of  
certificate.

(2.) Upon receipt of the application, the returning officer, if satisfied that the applicant is enrolled and that he is otherwise entitled to vote, shall grant a certificate, which shall be duly endorsed upon an envelope, and shall be in the prescribed form.

Certificate  
and postal  
ballot-paper.

(3.) The returning officer shall deliver or cause to be sent to the elector—

- (a) The certificate endorsed upon an envelope;
- (b) An envelope addressed to the returning officer at the principal polling-place; and
- (c) A postal ballot-paper.

Every postal ballot-paper shall be of such material and opacity that the voter may effectually conceal the

1915.

*Elections Act.*PART V.—  
NOMINATION,  
POLLING, AND  
CONDUCT OF  
ELECTIONS  
GENERALLY.

name of the person for whom he has voted, and shall bear in the right-hand upper corner of the face of the front page thereof a number which shall be machine-printed or otherwise legibly marked thereon. Each such ballot-paper shall be so numbered in regular arithmetical sequence beginning with 1, so that no two or more of them shall bear the same number. Such number is hereinafter referred to as the postal ballot-number. The postal ballot-paper shall be in the prescribed form.

No elector who has received any such certificate shall be entitled to vote except by means of a postal ballot-paper.

(4.) The returning officer shall keep and number the applications in consecutive numerical order.

Before the issue of the ballot-paper to the elector, the returning officer shall mark upon the certificate the number of the elector on the roll and also the postal ballot-number of the ballot-paper, and shall also fold down the right-hand upper corner of the front page of the ballot-paper so as entirely to conceal the postal ballot-number, and shall securely fasten the fold with gum or otherwise in such a manner that the number cannot be discovered without unfastening the fold.

(5.) In the presence of any elector of the same electoral district (not being a candidate or an agent paid by a candidate for services in connection with the election) or the duly qualified medical practitioner or qualified nurse who is in attendance on such voter and of no other person, the voter may, on or before the polling-day but not afterwards, vote in manner following and not otherwise:—

- (i.) The voter shall deliver to the person before whom he is voting the postal ballot-paper and the two envelopes aforesaid, in the same condition in which they were issued;
- (ii.) The voter shall then sign his name upon the certificate, and the person before whom he is voting shall then and there fill in the correct date and attest the signature;
- (iii.) The person before whom the voter is voting shall then deliver the postal ballot-paper to the voter, but shall retain the two envelopes aforesaid;

Returning  
officer to  
mark  
number on  
roll and  
postal ballot-  
number.How vote  
recorded.

- (iv.) The voter shall then, in the presence of but not in the sight of the person before whom he is voting or in the sight of any other person, vote by writing on the second page of the ballot-paper the name of the candidate for whom he votes ;
- (v.) The voter shall then fold up the ballot-paper so as to conceal the name of the candidate, and deliver it to the person before whom he is voting ;
- (vi.) The person before whom the voter is voting shall then, without unfolding the ballot-paper, place it in the envelope which is endorsed with the certificate, and shall fasten up the envelope ;
- (vii.) The person before whom the voter is voting shall then place such envelope in the envelope addressed to the returning officer, and forthwith deliver it to the voter for posting ;
- (viii.) For the purposes of contingent voting, the voter may write the names of the candidates or of any candidates upon the ballot-paper, one below the other, and the order in which the voter has so written them shall denote the order in which the voter desires the vote or votes to be counted.

No person shall attest a postal vote except in the presence of the voter and at the place where the voter is voting.

(6.) The person before whom the voter votes shall not look at the name of any candidate for whom the voter votes.

(7.) If any person before whom a voter votes, in the discharge of his duties under this Act, learns for what candidate such voter has voted, he shall not, by word or act or any other means whatsoever, directly or indirectly, divulge or discover, or aid in divulging or discovering, the fact, save in answer to some question which he is legally bound to answer.

(8.) If there is time conveniently to do so, the returning officer shall on all copies of rolls issued by him for use at the election make a note against the name of every elector to whom a postal vote certificate has been issued.

1915.

*Elections Act.*PART V.—  
NOMINATION,  
POLLING, AND  
CONDUCT OF  
ELECTIONS  
GENERALLY.Advice to  
presiding  
officers.

If there is not time conveniently to note the facts aforesaid on the rolls, the returning officer shall immediately advise all presiding officers of such issue in such manner as he thinks fit.

A signature upon a postal vote certificate purporting to be the signature of a voter shall, upon a scrutiny, without further proof, be *primâ-facie* evidence that such voter voted by post at the election.

Evidence of  
voter's  
signature.

The date and place of voting stated upon such certificate purporting to be the date on which and the place where the voter's signature is attested shall, upon a scrutiny, without further proof, be *primâ-facie* evidence of the date on which such voter voted by post and of the place where such vote was given and attested.

The postal ballot-number of the ballot-paper as aforesaid shall, upon a scrutiny, be *primâ-facie* evidence that such ballot-paper was issued to and used by the person to whom the postal vote certificate bearing the same number was issued.

(9.) At the scrutiny the returning officer shall produce, unopened, all postal voters' envelopes received up to the close of the poll, and the outer envelopes shall be opened, and the enclosures shall be dealt with as follows :—

Examination  
and count  
of votes.

- (i.) The returning officer shall produce the postal voters' applications ;
- (ii.) The returning officer, without opening the envelope endorsed with the certificate, shall compare the signature of the voter with the signature to the application, and allow the scrutineers who are present to inspect the same, and shall determine whether the signature on such envelope is that of the applicant. He shall also determine whether the vote was recorded within the time prescribed, and shall disallow all votes which have not been so recorded ;
- (iii.) If the vote is allowed, the returning officer shall open the envelope and insert the postal ballot-paper in the ballot-box. He shall also forthwith attach the said envelope by gum or otherwise to the application relating thereto ;
- (iv.) No postal ballot-paper shall be allowed at the scrutiny which is not enclosed in an envelope endorsed with the certificate duly signed, attested, and dated under this Act ;

(v.) If the returning officer disallows a vote, then the envelope endorsed with the certificate, unopened, and the application relating thereto shall be attached together by gum or otherwise, and shall be set aside for separate custody.

Mistakes by  
absent  
voters.

72. Any mistake by an absent voter in spelling of the name of any candidate, where the intention of the voter is clear, shall not render such vote informal. It shall suffice, when no two candidates have the same surname, for the absent voter to write the surname only of the candidate for whom he votes.

Saving  
appeal to  
Elections  
Tribunal.

73. Nothing herein contained shall be deemed to take away the right to appeal to the Elections Tribunal from the decision of the returning officer as to the allowance or disallowance of an absent vote.

For what  
causes ballot-  
paper to be  
rejected.  
Qland. s. 89.

74. (1.) Every ballot-paper (including a postal vote, but not any other absent vote) which—

- (a) Does not bear a ballot-number ; or
- (b) Has such number torn off ; or
- (c) Has no cross in a square opposite the name of a candidate, or has crosses in squares opposite the names of more than one candidate, or, being an absent vote, has no candidate's name written on it ; or
- (d) Has upon it any mark or writing not by this Act authorised to be put thereon which in the opinion of the returning officer will or may enable any person to identify the ballot-paper or the elector ;

shall be rejected at the close of the poll.

Ballot-paper  
when not to  
be rejected.

(2.) Provided that no ballot-paper shall be rejected merely because of some informality, or alleged informality, in the manner in which it has been dealt with by the elector or presiding officer if it is regular in other respects, and if, in the opinion of the returning officer, the intention of the elector in voting is clearly apparent.

(3.) Nothing in this section contained shall be deemed to affect the jurisdiction of the Elections Tribunal with respect to elections.

1915.

*Elections Act.*PART V.—  
NOMINATION,  
POLLING, AND  
CONDUCT OF  
ELECTIONS  
GENERALLY.

**75.** (1.) If the proceedings at any election are interrupted or obstructed by any riot or open violence, the presiding officer shall not for such cause finally close the poll, but shall—

Proceedings  
in case of  
riot or  
violence.  
Qland. s. 90.

- (a) Adjourn the poll at the particular polling-place at which the interruption or obstruction happens, to the following day; and
- (b) If necessary further adjourn such poll from day to day until the interruption or obstruction has ceased;

when the presiding officer shall again proceed with the business of taking the poll at the place at which it was so interrupted or obstructed.

(2.) Any day whereto the poll is so finally adjourned shall, as to such place, be reckoned the day of polling at such election within the meaning of this Act:

(3.) Provided that no adjournment shall be made to any day beyond that named as the return day in the writ, and if the election has not been completed by that day the returning officer shall specially return that fact.

(4.) When any poll has been so adjourned by any presiding officer other than the returning officer he shall forthwith give notice of such adjournment to the returning officer, who shall not finally declare the state of the poll or the name of the member elected until the poll has been finally closed and the ballot-papers have been examined and counted by him as hereinafter provided.

**76.** The following acts are, on polling-day and on all days to which the polling is adjourned, prohibited, within fifty feet from the main entrance of the building within which a polling-booth is situated or within a polling-booth, namely:—

Prohibition  
of  
canvassing,  
&c., near  
polling-  
booth.  
Ib. s. 125.

- (a) Canvassing for votes; or
- (b) Soliciting the vote of any elector; or
- (c) Inducing any elector not to vote for any particular candidate; or
- (d) Inducing any elector not to vote at the election; or
- (e) Loitering in the vicinity of or obstructing the free passage of voters to or from the polling-booth.

Any person who contravenes this section shall be liable to a penalty not exceeding twenty pounds.

PART V.—  
NOMINATION,  
POLLING, AND  
CONDUCT OF  
ELECTIONS  
GENERALLY.

*Elections Act.*

6 GEO. V. No. 13,

Party  
emblems not  
to be worn  
in polling-  
booth.  
Qland.  
s. 126.

**77.** The wearing or displaying in any polling-booth of any party emblem or badge by any returning officer, presiding officer, poll clerk, or scrutineer is prohibited.

Any person who contravenes this section shall be liable to a penalty not exceeding twenty pounds.

Power of  
presiding  
officer.  
Ib. s. 91.

**78.** Every presiding officer shall have power and authority to maintain and enforce order and keep the peace at any election held by or before him.

PART VI.—  
PUBLICATION  
OF RESULTS  
AND RETURN  
OF WRITS OF  
ELECTION.

PART VI.—PUBLICATION OF RESULTS AND RETURN OF WRITS OF ELECTION.

Assistant  
returning  
officer.  
Ib. s. 108.

**79.** (1.) Whenever it is likely that not more than fifty votes will respectively be polled at one or more of the polling-places amongst several polling-places for a district (herein called a group), and that the results of the polling for the group will more conveniently be ascertained at one central polling-place, the Governor in Council may appoint a person to act at such central polling-place as assistant returning officer.

Such officer shall also act as and be deemed for all purposes to be the presiding officer at such central polling-place.

Duty of  
presiding  
officer of  
group.

(2.) Every presiding officer at the several polling-places of the group shall, at the close of the poll, in the presence of the poll clerk, if any, and of such of the candidates and scrutineers as may attend, make up in separate and distinct parcels—

- (a) The ballot-box unopened; and
- (b) The roll supplied to him by the returning officer (which shall be signed by him and the poll clerk, if any), and all books and papers used by him during the polling; and
- (c) All ballot-papers set aside for separate custody as aforesaid;

and shall seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire, and shall, with the least possible delay, deliver such parcels, or cause them to be delivered, to the assistant returning officer at the central polling-place of the group.

Duty of  
assistant  
returning  
officer.

(3.) Every assistant returning officer shall, as soon as possible after he has received the sealed parcels so transmitted to him—

- (i.) (a) Open the several sealed parcels containing the ballot-boxes, and mix the ballot-papers

1915.

*Elections Act.*PART VI.—  
PUBLICATION  
OF RESULTS  
AND RETURN  
OF WRITS OF  
ELECTION.

taken at his own polling-place with all the ballot-papers contained in the said ballot-boxes; and

- (b) Thereupon, in the presence of his poll clerk, if any, and of such of the candidates and scrutineers as may attend, examine and count the number of votes received for each candidate at all the said polling-places; and
  - (c) Make out a written statement signed by himself and countersigned by his poll clerk, if any, and by any scrutineers who are present and consent to sign the same, containing the aggregate number in words and figures of the votes received for each candidate so counted as aforesaid; and,
- (ii.) After making out and signing such statement, make up in separate and distinct parcels—
    - (a) All the ballot-papers so counted as aforesaid, and all the rolls, books, and papers kept and used by him and the said presiding officers during the polling (his own roll being signed by him and the poll clerk, if any); and
    - (b) All ballot-papers set aside for separate custody by him and the said presiding officers; and
  - (iii.) Seal up such parcels, and permit the same to be sealed by the scrutineers present if they so desire; and
  - (iv.) With the least possible delay deliver such parcels and statement or cause them to be delivered to the returning officer; and,
  - (v.) By the next practicable opportunity thereafter, also transmit a duplicate of such statement signed and countersigned as aforesaid.

**80.** At every polling-place in respect of which an assistant returning officer has not been appointed, the presiding officer other than the returning officer shall at the close of the poll, in the presence of the poll clerk, if any, and of such of the candidates and scrutineers as may attend—

- (i.) Examine and count the number of votes received for each candidate at the polling-place at which he presided; and

Presiding  
officer to  
seal and  
forward  
ballot-papers  
to returning  
officer.

- (ii.) Make out a written statement, signed by himself and countersigned by his poll clerk, if any, and any scrutineers who are present and consent to sign the same, containing the numbers in words as well as figures of the votes received for each candidate so counted as aforesaid; and,
- (iii.) After making out and signing such statement, make up in separate and distinct parcels—
  - (a) All the ballot-papers together with the roll supplied to him by the returning officer (which shall be signed by him and the poll clerk, if any), and all books and papers used by him during the polling; and
  - (b) All ballot-papers set aside for separate custody as aforesaid; and
- (iv.) Seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire; and
- (v.) With the least possible delay deliver such parcels and statement or cause them to be delivered to the returning officer; and,
- (vi.) By the next practicable opportunity thereafter, also transmit a duplicate of such statement signed and countersigned as aforesaid.

Returning officer to examine and count votes at his polling-place and then seal up the same. Qland. s. 109.

**81.** Every returning officer shall at the close of the poll, in the presence of his poll clerk, if any, and of such of the candidates and scrutineers as may attend—

- (i.) Examine and count the number of votes received for each candidate at his own polling-place, if any; and
- (ii.) Make out a written statement, signed by himself and countersigned by his poll clerk, if any, and by any scrutineers who are present and consent to sign the same, containing the number in words and figures of the votes received for each candidate; and,
- (iii.) After making out and signing such statement, make up in separate and distinct parcels—
  - (a) All the ballot-papers, rolls, books, and papers kept and used by him during the polling; and

1915.

*Elections Act.*

- (b) All ballot-papers set aside for separate custody as aforesaid; and
- (iv.) Seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire; and
- (v.) Endorse the same when so sealed with a description of the contents thereof, and with the name of the electoral district and polling-place, and the date of polling, and sign such endorsement with his name.

**82. (1.)** As soon as possible after the returning officer has received from the several assistant returning officers and presiding officers the sealed parcels so transmitted to him, containing the ballot-papers counted at the central polling-places and other polling-places outside a group respectively, and the several statements of the number of votes so transmitted by them, he shall—

- (i.) From his own statement, if any, and such other statements ascertain the gross number of votes for each candidate; and
- (ii.) In the presence of his poll clerk (if any) and of such candidates and scrutineers as may attend, open such sealed parcels, and examine and count the number of votes for each candidate at each central polling-place and other polling-place outside a group, and in manner prescribed examine and count the absent votes received; and,
- (iii.) After having counted the same, make up in separate and distinct parcels the ballot-papers, rolls, books, and papers received from each assistant returning officer and presiding officer, and the absent votes and declarations in like manner as hereinbefore required concerning the ballot-papers, rolls, books, and papers kept and used by him at his own polling-place, if any; and
- (iv.) Seal up, and also permit to be sealed up by the scrutineers, and endorse in like manner as aforesaid, the said several parcels, and deal with the same as hereinafter provided.

(2.) He shall also make out, in respect of each central polling-place and other polling-place outside a group, a

like written statement, signed and countersigned as hereinbefore required, concerning his own polling-place.

(3.) The returning officer shall also examine the rolls which have been used and marked by himself (if any) and the presiding officers at the several polling-places, and ascertain whether any electors appear to have voted at more than one polling-place, and shall make out a list showing the names and numbers of all electors who appear to have so voted at more than one polling-place, and shall forward a copy thereof to each of the candidates, and shall enclose the original list in the sealed packet to be made up by him as hereinafter provided.

(4.) The returning officer shall not open or examine any sealed packet in the joint absence of any candidate and his scrutineer unless he has given twenty-four hours' previous notice in writing to such candidate, or to his scrutineer, of his intention to open and examine the same :

Provided that no election shall be invalidated by reason of any act of a returning officer in opening or examining any sealed packet contrary to this provision, unless it is proved that he did such act with a fraudulent intent.

**83.** (1.) The returning officer, as soon as possible after he has examined and counted all the ballot-papers and ascertained the gross number of votes received for each candidate, shall forthwith or as soon as practicable publicly notify, by advertisement in some newspaper published in or generally circulating in the district, the general state of the poll so ascertained and the name of the candidate who has been elected.

(2.) Provided that when the returning officer has ascertained upon an examination and count of all the ballot-papers taken at the different polling-places, and of such absent votes as have then been received, examined, and counted by him, that the result of the election cannot be affected by any absent votes still to be received from distant places, he may at once publicly notify as aforesaid the name of the candidate who has been elected.

Nevertheless, he shall, in manner hereinbefore prescribed, examine and count all absent votes received thereafter until the second day preceding the day named in the writ for its return.

(3.) Save as hereinafter provided, no envelope purporting to contain an absent vote received by him on the second day preceding or on the day preceding the day

1915.

*Elections Act.*PART VI.—  
PUBLICATION  
OF RESULTS  
AND RETURN  
OF WRITS OF  
ELECTION.

named in the writ for the return thereof, or on or after such day, shall be opened or examined by him, and no vote given thereby shall be counted; and he shall, in manner hereinafter directed, transmit all such envelopes, unopened, to the Clerk of the Assembly.

(4.) Provided that when by reason of some impediment the receipt of certain absent votes has been delayed, and the returning officer has reason to believe that such votes, when received, examined, and counted, may affect the result of the election, he may certify accordingly to the Governor or Speaker, as the case may be, who may thereupon extend the time for the return of the writ, so as to permit such votes to be received, and such votes shall, when received, be examined and counted, and the state of the poll shall be then publicly notified accordingly.

(5.) In the event of the number of votes for any two or more candidates being found to be equal, the returning officer shall decide by his casting vote which shall be elected.

(6.) No returning officer shall vote at any election for his district except in the case of an equality of votes.

**84.** (1.) The returning officer shall, as soon as practicable after the declaration of the poll at any election, enclose in one packet the several sealed parcels so made up and sealed by him, and shall seal up such packet and endorse the same with a description of the several contents thereof and the name of the electoral district and the date of polling, and sign such endorsement with his name, and shall forthwith transmit such sealed packet to the Clerk of the Assembly, who shall safely keep the same for two years after the receipt thereof.

Ballot-papers to be transmitted to the Clerk of Assembly. Qland. s. 112.

(2.) If any question at any time arises touching the votes alleged to have been given at any election, the ballot-papers and declarations contained in any such sealed packet shall be received in evidence as proof of such votes in any court of justice or by the Elections Tribunal upon production thereof, and of a certificate under the hand of the Clerk of the Assembly that the same were transmitted to him in due course by the returning officer of the district to which the same relate.

**85.** The name of the person elected and the date of his election shall be endorsed on the writ by the returning officer, and the writ shall be by him returned to the Governor or Speaker, as the case may be, within the time specified therein.

Name of person elected to be endorsed on writ. Ib. s. 113.

PART VI.—  
PUBLICATION  
OF RESULTS  
AND RETURN  
OF WRITS OF  
ELECTION.

Election not  
to be  
questioned.  
Qland.  
s. 114.

**86.** No election shall be liable to be questioned by reason of any defect in the title, or any want of title, of any person by or before whom such election is held, if such person really acted at such election, nor by reason of any formal error or defect in any declaration or other instrument, or in any publication made under this Act or intended to be so made, nor by reason of any such publication being out of time.

Remedy for  
informalities  
in election  
proceedings.  
Ib. s. 115.

**87.** No election shall be void in consequence solely of any delay in holding the election at the time appointed, or in taking the poll, or in the return of the writ, or in consequence of any impediment of a merely formal nature.

And the Governor in Council may adopt such measures as may be necessary for removing any obstacle of a merely formal nature by which the due course of any election might be impeded :

Provided that the validity of the election and the measures so taken shall be forthwith declared by the Governor in Council by Order in Council.

Expenses.  
Ib. s. 116.

**88.** All expenses which a returning officer necessarily incurs in and about an election under this Act, and also such reasonable remuneration as may be fixed by way of payment for services rendered by a returning officer, shall be defrayed out of such moneys as are appropriated by Parliament for that purpose.

PART VII.—  
SUPPLEMENTAL  
PROVISIONS.

Actions for  
liquor or  
refreshment  
supplied at  
elections not  
to be  
maintain-  
able.  
Ib. s. 120.

#### PART VII.—SUPPLEMENTAL PROVISIONS.

**89.** No action or suit shall be maintainable by any licensed publican or any owner or keeper of any shop, booth, tent, or other place of entertainment against any candidate or any agent of any such candidate, for any liquor, food, or refreshment of any kind, whether for man or beast, supplied upon the credit of any such candidate or agent during the progress of any election under this Act.

Disorderly  
behaviour at  
meeting.  
Ib. s. 127.

**90.** (1.) Any person who, at any public meeting to which this section applies, acts in a disorderly manner, or who impedes or obstructs the transaction of the business for which the meeting is held, shall be liable to a penalty not exceeding ten pounds.

The chairman of such meeting may direct any member of the police force to take the name and address of the offender, and may, without any warrant other than this Act, cause the offender to be arrested by any member of

1915.

*Elections Act.*PART VII.—  
SUPPLEMENTAL  
PROVISIONS.

the police force and conveyed to a watch-house, and there detained until he can be dealt with according to law ; and every member of the police force is authorised and required to obey the direction of the chairman in such behalf.

(2.) This section applies to any lawful public political meeting held in relation to any State bye-election or general election of a member or members between the date of the issue of the writ for the election and the date of the return of the writ.

**91.** (1.) On and after the date of issue of a writ and before the date of any election, every article, report, letter, or other matter commenting upon any candidate, or political party, or the issues being submitted to the electors, printed and published in any newspaper, circular, pamphlet, or “dodger” shall be signed by the author and authors, giving his or their true name and address or names and addresses at the end of the said article, report, letter, or other matter. Any person who contravenes this provision shall be liable to a penalty not exceeding fifty pounds.

Political  
articles must  
be signed.  
Comm.  
s. 181AA.

(2.) Any newspaper editor or proprietor who permits, in any newspaper which he edits or owns, the publication of any unsigned article, report, letter, or other matter commenting upon any candidate, or political party, or the issues being submitted to the electors after the issue of a writ and before the date of the election shall be liable to a penalty not exceeding fifty pounds.

**92.** (1.) Every person guilty of a corrupt or illegal practice or of illegal payment or hiring at an election is prohibited from voting at such election, and if any such person votes his vote shall be void.

Prohibition  
of persons  
guilty of  
corrupt or  
illegal  
practices,  
&c., from  
voting.  
Qland.  
ss. 123, 124.

(2.) Every person who, in consequence of conviction or of the report of the Elections Tribunal, has become, under this Act or under any other Act for the time being in force relating to corrupt or illegal practices, incapable of voting at any election, is prohibited from voting at such election, and if any such person votes his vote shall be void.

**93.** In any prosecution, and in all proceedings in which it is material to prove any writ of election, it shall be sufficient to produce a copy thereof certified by the Governor or Speaker, and a copy shall be made and so certified simultaneously with or immediately after the issue of any writ of election, and shall be transmitted to the returning officer with the writ directed to him.

Proof of writ  
of election  
facilitated.  
1b. s. 129.

Evidence of  
election.  
Qland.  
s. 130.

**94.** The certificate of the returning officer at an election that the election mentioned in the certificate was duly held, and that any person named in the certificate was a candidate at such election, shall in any judicial proceeding be sufficient evidence of the facts therein stated.

Neglect of  
electoral  
registrar, &c.  
Ib. s. 133.  
Comm.  
s. 61D.

**95.** (1.) The Principal Electoral Officer and every electoral registrar who is guilty of any wilful misfeasance or wilful or negligent act of commission or omission contrary to any of the provisions of this Act shall be liable to a penalty not exceeding fifty pounds.

(2.) Any officer who receives a claim for enrolment or an application for transfer or change under this Act, and who without just excuse fails to do everything necessary on his part to be done to secure the enrolment pursuant to the claim or application, shall be liable to a penalty not exceeding ten pounds.

Undue  
influence by  
public  
officers.  
Qland.  
s. 134.

**96.** Every police magistrate, clerk of petty sessions, or officer or member of the police force who, during the time he continues in such office, by word, message, writing, or in any other manner, endeavours to persuade any elector to give, or dissuade any elector from giving, his vote for any candidate, or endeavours to persuade or induce any elector to refrain from voting at any election, shall forfeit the sum of one hundred pounds, to be recovered by any person who shall sue for the same without collusion within six months after the commission of the offence.

Penalty for  
neglect by  
returning  
officer, &c.  
Ib. s. 135.

**97.** (1.) Every returning officer or assistant returning officer who, after having accepted office as such, wilfully neglects or refuses to perform any of the duties which by this Act he is required to perform, shall forfeit and pay a sum not exceeding two hundred pounds and not less than ten pounds.

(2.) Every justice, presiding officer, or other officer or person who wilfully neglects or refuses to perform any of the duties which by this Act he is required to perform shall forfeit and pay a sum not exceeding fifty pounds.

Governor  
may mitigate  
or remit  
penalty.

(3.) Such penalties may be recovered, with full costs of suit, by the first person who shall sue for the same without collusion within six months after the commission of the offence: Provided that the Governor in Council may mitigate or wholly remit any such penalty or forfeiture.

1915.

*Elections Act.*PART VII.—  
SUPPLEMENTAL  
PROVISIONS.

**98.** Every person who obstructs or wilfully misleads the Principal Electoral Officer in the execution of his powers or duties, or who wilfully misleads any electoral registrar in the preparation of any roll, or who wilfully inserts or causes to be inserted therein any false or fictitious name or qualification, shall be liable to a penalty not exceeding twenty pounds, or to be imprisoned for any period not exceeding three months.

Persons  
obstructing  
or wilfully  
misleading  
electoral  
registrar,  
&c., liable  
to penalty.  
Qland.  
s. 136.

**99.** Save as herein otherwise expressly provided, all offences under this Act may be prosecuted in a summary way under "*The Justices Acts, 1886 to 1909.*"\*

Prosecution  
on summary  
conviction.  
1b. s. 137.

**100.** (1.) The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act, including provision for all matters enabling electors absent from Queensland to exercise the right to vote either personally or by persons nominated by them for that purpose, and, where there may be in this Act no provision or no sufficient provision in respect of any matter or thing necessary or expedient to give effect to this Act, providing for and supplying such omission or insufficiency.

Regulations.

(2.) The regulations may fix a penalty, not exceeding in any case ten pounds, for any breach thereof.

(3.) All such regulations shall be published in the *Gazette*, and thereupon shall have the same force as if they were enacted in the body of this Act.

Such regulations shall be laid before Parliament within three weeks after such publication, if Parliament is then sitting, and if not then within three weeks after the beginning of the then next session of Parliament.

(4.) If either House of Parliament passes a resolution disallowing any such regulation, of which resolution notice has been given at any time within thirty sitting days of such House after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

\* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

## PART VIII.—ELECTIONS TRIBUNAL.

Constitution  
of Elections  
Tribunal.  
Qland.  
s. 140.  
General  
powers of  
Tribunal.

**101.** (1.) There shall be an Elections Tribunal, which shall be constituted by a Judge of the Supreme Court. The Elections Tribunal shall be a Court of Record.

(2.) Such Tribunal shall have power to inquire into and determine—

(a) Election petitions ; and

(b) All questions which may be referred to it by the Assembly respecting the validity of any election or return of any member to serve in the Assembly, whether the question relating to such election or return arises out of an error in the return of the returning officer, or out of his failure to make a return, or out of an allegation of bribery or corruption against any person concerned in the election, or out of any other allegation calculated to affect the validity of such election or return ; and

(c) Concerning the qualification or disqualification of any person who has been returned as a member of the Assembly.

Trial.

(3.) The trial of the petition or reference shall be had before the Judge sitting alone ; all questions of law and fact arising upon the petition or at the trial shall be determined by the Judge.

Power of  
Judge.

(4.) Subject to this Act, on the trial of an election petition or reference the Judge shall have all the powers, jurisdiction, and authority of a Judge of the Supreme Court of Queensland.

Chief Justice  
to notify  
name of  
Elections  
Judge to  
Speaker  
annually.  
Ib. s. 141.

**102.** In or about the month of January in each year the Chief Justice shall notify to the Speaker the name of one of the Judges of the Supreme Court at Brisbane who will be the Judge to preside at sittings of the Elections Tribunal for that year.

It shall be the duty of the Judge so named to hear and determine election petitions and other questions referred to the Tribunal during that year.

In the event of the Judge so named being unable for any reason to try any election petition or reference, the Chief Justice shall from time to time notify to the Speaker

1915.

*Elections Act.*PART VIII.—  
ELECTIONS  
TRIBUNAL.

the name of another Judge of the Supreme Court to act in his place, and it shall be the duty of the Judge so named to act in his place accordingly.

**103.** A petition complaining of the undue election or return of a member to serve in the Assembly, or complaining that no return has been made to a writ issued for the election of a member to serve in the Assembly, may be presented by any one or more of the following persons:—

Petition against sitting member or return of writ. Qland. s. 142.

- (1) Some person who voted or had a right to vote at the election to which the petition relates; or
- (2) Some person claiming to have had a right to be returned or elected at such election; or
- (3) Some person alleging himself to have been a candidate at such election.

An election petition must be signed by the petitioner, or by all the petitioners if more than one.

**104.** An election petition must be presented to the Supreme Court of Queensland, at Brisbane, and must be addressed to the Judges thereof, and shall be presented by lodging the same in the office of the Registrar.

Petition to be presented to Supreme Court. Ib. s. 143.

The petition must be presented within eight weeks after the day of the return of the writ to which the petition relates, unless the petition relates to a charge of bribery or corruption alleged to have been committed at an election, in which case it may, with the leave of the Assembly, be presented at any time within twelve months after the day of the return of the writ.

When to be presented.

**105.** The Registrar shall forthwith publish a copy of the petition in the *Gazette*, and the returning officer of the electoral district shall publish a copy thereof in some newspaper circulating in the district.

Petition to be published and served on sitting member. Ib. s. 144.

The petitioner shall cause a copy of the petition to be served upon the sitting member, if any.

The petition shall be served as nearly as may be in the manner in which a writ of summons is served, or in such other manner as may be prescribed.

**106.** The sitting member may within six weeks after service of the petition on him, and any person who voted or who had a right to vote at the election to which the petition relates, or any person complained against in

Parties to petition. Ib. s. 145.

the petition, may, within six weeks after publication thereof in the *Gazette*, by notice in writing to the Registrar, be admitted as a party to support or to oppose the same or to defend the return of the sitting member, as the case may be; every person so admitted shall be deemed to be a party to the petition.

Deposit for costs of petition. Qland. s. 146.

**107.** The petitioner shall pay into court with the petition the sum of two hundred pounds to the credit of the matter of the petition, which sum shall be liable to be applied, upon the order of the Judge, towards the costs of the respondents to the petition as hereinafter provided, or may be restored to the petitioner, wholly or in part, as the case may require.

Place and time of trial. Ib. s. 147.

**108.** (1.) The trial of an election petition or reference shall be held within the electoral district concerned in the court-house at the place of nomination, or in such other place there as the Judge shall appoint.

(2.) The time for the trial shall be appointed by the Judge.

Notice of trial.

(3.) Notice of the time and place at which an election petition or reference is to be tried shall be given to all parties not less than fourteen days before the day on which the trial is held.

Adjournment of trial. Ib. s. 148.

**109.** The Judge may adjourn the trial from time to time and from any one place to any other place within the district as may be expedient.

Trial to be public. Ib. s. 149.

**110.** The proceedings of the Tribunal shall be conducted openly, and each party to the petition or reference may be present, and may be heard by himself or by an agent appointed by him in writing.

Principles of trial. Ib. s. 150.

**111.** Upon the trial of an election petition or reference the Tribunal shall be guided by the real justice and good conscience of the case, without regard to legal forms and solemnities, and shall direct itself by the best evidence it can procure, or which is laid before it, whether the same is such evidence as the law would require or admit in other cases or not.

Powers in respect of affidavits.

And in particular it shall be competent to the Tribunal, if it thinks fit, to receive affidavits relative to any of the matters in question before it, taken before any justice (which affidavits such justice is hereby authorised to take).

1915.

*Elections Act.*PART VIII.—  
ELECTIONS  
TRIBUNAL.

**112.** Witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances admit, as on a trial of a civil action in the Supreme Court.

Summons of  
witnesses.  
Qland.  
s. 151.

**113.** On the trial of an election petition or reference the Judge may, by order under his hand, compel the attendance of any person as a witness who appears to him to have been concerned in the election in question, and any person refusing to obey such order shall be guilty of contempt of court.

Elections  
Judge may  
summon  
and examine  
witnesses.  
Ib. s. 152.

The Judge may examine any witness so compelled to attend, or any person in court, although such witness is not called and examined by any party to the petition or reference.

After the examination of a witness as aforesaid by the Judge, such witness may be cross-examined by or on behalf of any party to the petition or reference.

**114.** The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition or reference, according to the scale allowed to witnesses on the trial of civil actions in the Supreme Court, may be allowed to such person by a certificate under the hand of the Judge or of the prescribed officer, and such expenses, if the witness was called and examined by the Judge, shall be deemed part of the expenses of the Tribunal, and in other cases shall be deemed to be costs of the petition or reference.

Expenses of  
witnesses.  
Ib. s. 153.

**115.** On the trial of an election petition or reference, the principal shorthand writer of the Assembly or his deputy shall attend and shall be sworn faithfully and truly to take down the evidence given at the trial, and from time to time as occasion requires to write or cause the same to be written in words at length.

Shorthand  
writer to  
attend trial  
of election  
petition.  
Ib. s. 154.

It shall be the duty of such shorthand writer to take down such evidence and from time to time to write or cause the same to be written at length, and a copy of such evidence shall accompany the certificate made by the Judge to the Speaker.

**116.** On the trial of an election petition complaining of an undue return and claiming the seat for some person, the respondent may give evidence to prove that the election of such person was undue in the same manner as if he had presented a petition complaining of such election.

Reerimina-  
tion where  
petition for  
undue  
return.  
Ib. s. 155.

Judge to  
certify  
determina-  
tion to  
Speaker.  
Qland.  
s. 156.

117. At the conclusion of the trial the Judge shall declare, upon the questions of fact and law arising before him, whether the member whose return or election is complained of was duly returned or elected, or whether any person not returned as elected was duly elected, or whether the election was void, or whether any member whose qualification is in question was qualified or disqualified, as the case may require, and shall certify in writing such determination to the Speaker, and upon such certificate being given such determination shall be final to all intents and purposes.

Appeal to  
Full Court.  
Ib s. 157.

118. An appeal shall lie to the Full Court from every decision of the Judge upon a question of law.

When notice has been given of an intended appeal, the Judge shall postpone the granting of the certificate hereinbefore mentioned until the determination of the appeal by the Full Court.

Special case.  
Ib. s. 158.

119. When upon the application of any party to a petition or reference it appears to the Judge that the case raised by the petition or reference can be conveniently stated as a special case, he may direct the same to be stated accordingly, and any such special case shall be heard before the Full Court, and the decision of the Court shall be final; and the Court shall certify to the Speaker its determination in reference to such special case.

Question  
may be  
reserved for  
Full Court.  
Ib. s. 159.

120. If it appears to the Judge on the trial of a petition or reference that any question of law requires further consideration, the Judge may postpone the granting of the certificate hereinbefore mentioned until the determination of such question by the Full Court, and may for that purpose reserve any such question for the opinion of the Full Court.

Evidence of  
corrupt  
practices,  
how  
received.  
Ib. s. 162.

121. On the trial of a petition or reference, unless the Judge otherwise directs, any charge of a corrupt practice may be gone into and evidence in relation thereto may be received before any proof has been given of agency on the part of any candidate in respect of such corrupt practice.

Elections  
Judge to  
make report  
in case of  
corrupt  
practice, &c.  
Ib. s. 160.

122. Where a charge is made in a petition of any corrupt practice having been committed at the election to which the petition relates, the Judge shall, in addition to the certificate hereinbefore mentioned and at the same time, report in writing to the Speaker as follows:—

(a) Whether any corrupt practice has or has not been proved to have been committed by or

1915.

*Elections Act.*PART VIII.—  
ELECTIONS  
TRIBUNAL.

with the knowledge and consent of any candidate at such election, and the nature of such corrupt practice ;

- (b) The names of all persons (if any) who have been proved at the trial to have been guilty of any corrupt practice ;
- (c) Whether corrupt practices have, or whether there is reason to believe that corrupt practices have, extensively prevailed at the election to which the petition relates.

The Judge may at the same time make a special report to the Speaker as to any matters arising in the course of the trial, of which, in his judgment, an account ought to be submitted to the Assembly.

**123.** The Assembly, on being informed by the Speaker of any such certificate and report or reports, if any, shall order the same to be entered in their journals, and shall give the necessary directions for confirming or amending the return, or for issuing a writ for a new election, or for carrying the determination into execution, as circumstances may require.

Assembly to carry out report. Qland. s. 161.

**124.** If upon the trial of a petition the Judge reports that any corrupt practice other than treating or undue influence has been proved to have been committed in reference to such election, by or with the knowledge and consent of any candidate at such election, or that the offence of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of being elected to or sitting in the Assembly for the period of three years, and if he has been elected his election shall be void.

Candidate found, on petition, guilty personally of corrupt practices. Ib. s. 117.

**125.** If upon the trial of a petition in which a charge is made of any corrupt practice having been committed in reference to an election the Judge reports that a candidate at such election has been guilty by his agents of any corrupt practice in reference to such election, that candidate shall not be capable of being elected to or sitting in the Assembly for such district during the Parliament for which the election was held, and if he has been elected his election shall be void.

Candidate found, on petition, guilty by agents of corrupt practices. Ib. s. 118.

Connivance  
of candidate  
at illegal  
practice.  
Qland.  
s. 119.

**126.** If upon the trial of a petition the Judge reports that any illegal practice is proved to have been committed in reference to such an election by or with the knowledge and consent of any candidate at such election, that candidate shall not be capable of being elected to or sitting in the Assembly for that district for three years next after the date of the report, and if he has been elected his election shall be void.

He shall further be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice.

Report  
exonerating  
candidate in  
certain cases  
of corrupt  
and illegal  
practice  
by agents.  
Ib. s. 121.

**127.** When upon the trial of a petition the Judge reports that a candidate at such election has been guilty by his agents of the offence of treating and undue influence and illegal practice, or of any of such offences, in reference to such election, and further reports that the candidate has proved—

- (a) That no corrupt or illegal practice was committed at such election by the candidate himself and the offences mentioned in the said report were committed contrary to his orders and without his sanction or connivance ;
- (b) That such candidate took all reasonable means for preventing the commission of corrupt and illegal practice at such election ;
- (c) That the offences mentioned in the report were of a trivial, unimportant, and limited character ; and
- (d) That in all other respects the election was free from any corrupt or illegal practice on the part of the candidate,

then the election of such candidate shall not, by reason of the offences mentioned in the report, be void, nor shall the candidate be subject to any incapacity under this Act.

Power of  
Tribunal to  
except  
innocent act  
from being  
illegal  
practice, &c.  
Ib. s. 122.

**128.** When it appears to the Tribunal that any act or omission of a candidate at any election, or of his agent or of any other person, which would, by reason of being a payment, engagement, or contract in contravention of this Act or "*The Criminal Code*,"\* or of otherwise being in contravention of this Act or "*The Criminal Code*,"\* be but for this section an illegal practice, payment, or hiring, arose from inadvertence

\* 63 Vic. No. 9, Sch. I., *supra*, page 344.

1915.

*Elections Act.*

or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith, and under the circumstances it seems to the Tribunal to be just that the candidate and the agent and other person, or any of them, should not be subject to any of the consequences under this Act of such act or omission, the Tribunal may make an order allowing such act or omission to be an exception from the provisions of this Act which would otherwise make the same an illegal practice, payment, or hiring, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under this Act of the said act or omission.

129. (1.) A person who is called as a witness respecting an election before the Tribunal shall not be excused from answering any question relating to any offence at or connected with such election on the ground that the answer thereto may criminate or tend to criminate himself or on the ground of privilege : .

Obligation of witness to answer, and certificate of indemnity. Qland. s. 131.

Provided that—

- (a) A witness who answers truly all questions which he is required by the Tribunal to answer shall be entitled to receive a certificate of indemnity under the hand of the Judge stating that such witness has so answered ; and
- (b) An answer by a person to a question put by or before the Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of such evidence, be in any proceeding, civil or criminal, admissible in evidence against him.

(2.) When a person has received such a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against him for any offence under this Act committed by him, previously to the date of the certificate, at or in relation to the same election, the court having cognisance of the case shall, on proof of the certificate, stay the proceeding, and may in its discretion award to such person such costs as he may have been put to in the proceeding.

(3.) Nothing in this section shall be taken to relieve a person receiving a certificate of indemnity from any incapacity under this Act or from any proceeding to enforce such incapacity other than a criminal prosecution.

(4.) When a solicitor or other person lawfully acting as agent for any party to a petition respecting any election has not taken any part or been concerned in such election, the Tribunal shall not be entitled to examine such solicitor or agent respecting matters which came to his knowledge by reason only of his being concerned as solicitor or agent for a party to such petition.

Submission  
of report of  
Elections  
Tribunal  
to Attorney-  
General.  
Qland.  
s. 132.

**130.** The Judge, when reporting that certain persons have been guilty of any corrupt or illegal practice, shall report whether those persons have or have not been furnished with certificates of indemnity; and such report shall be laid before the Attorney-General, together with the evidence on which such report was based, with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence is in his opinion sufficient to support a prosecution.

Acceptance  
of office or  
prorogation  
not to stop  
petition.  
Ib. s. 163.

**131.** (1.) The trial of a petition shall be proceeded with notwithstanding the acceptance by the respondent of an office of profit under the Crown.

(2.) The trial of a petition or reference may be proceeded with after the prorogation of Parliament.

Withdrawal  
of petition  
and  
substitution  
of new  
petitioners.  
Ib. s. 164.

**132.** (1.) An election petition shall not be withdrawn without the leave of the Judge upon special application, to be made in and at the prescribed manner, time, and place.

(2.) No such application shall be made for the withdrawal of a petition until the prescribed notice has been given in the electoral district of the intention of the petitioner to make an application for the withdrawal of his petition.

(3.) On the hearing of the application for withdrawal, any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Judge to be substituted as a petitioner for the petitioner so desirous of withdrawing the petition.

(4.) The Judge may, if he thinks fit, substitute as a petitioner any such applicant as aforesaid, and may further, if the proposed withdrawal is, in the opinion of the Judge, induced by any corrupt bargain or consideration, by order direct that the sum paid into court by the original petitioner shall remain as security for any costs

1915.

*Elections Act.*PART VIII.—  
ELECTIONS  
TRIBUNAL.

that may be incurred by the substituted petitioner, and that the original petitioner shall be liable to pay the costs of the substituted petitioner.

If no such order is made with respect to the sum paid into court by the original petitioner, the same amount must be paid into court by the substituted petitioner before he proceeds with his petition and within the prescribed time after the order of substitution.

Subject as aforesaid, a substituted petitioner shall stand in the same position as nearly as may be, and be subject to the same liabilities, as the original petitioner.

(5.) If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

(6.) Where there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

**133.** In every case of the withdrawal of a petition the Judge shall report to the Speaker whether in his opinion the withdrawal of such petition was the result of any corrupt arrangement or in consideration of the withdrawal of any other petition, and, if so, shall report the circumstances attending the withdrawal.

Judge to report to the Speaker circumstances of withdrawal. Qland. s. 165.

**134.** A petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

Abatement of petition. Ib. s. 166.

The abatement of a petition shall not affect the liability of the petitioner to the payment of costs previously incurred.

On the abatement of a petition the prescribed notice of such abatement having taken place shall be given in the electoral district; and within the prescribed time after the notice is given any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Judge, in and at the prescribed manner, time, and place, to be substituted as a petitioner.

The Judge may, if he thinks fit, substitute as a petitioner any such applicant who is desirous of being substituted and on whose behalf payment is made into court as is required in the case of a new petition.

**135.** If before the trial of a petition any of the following events happen in the case of the respondent, that is to say—

(1) If he dies;

(2) If the Assembly resolves that his seat is vacant;

Admission in certain cases of voters to be respondents. Ib. s. 167.

- (3) If he fails within the time hereinbefore provided to give notice to the Registrar that he intends to oppose the petition ;
- (4) If he gives, in and at the prescribed manner and time, notice to the Tribunal that he does not intend to oppose the petition,

notice of such event having taken place shall be given by advertisement in the electoral district.

In the two first-mentioned cases such notice shall be given by the Clerk of the Assembly, and in the two last-mentioned cases it shall be given by the Registrar.

Within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Judge to be admitted as a respondent to oppose the petition, and such person shall on such application be admitted accordingly, either with the respondent, if there is a respondent, or in place of the respondent ; and any number of persons not exceeding three may be so admitted.

Respondent  
not opposing  
not to appear  
as party or  
to sit.  
Qland.  
s. 168.

**136.** A respondent who has given the prescribed notice that he does not intend to oppose a petition shall not be allowed to appear or act as a party against such petition in any proceedings thereon, and shall not sit or vote in the Assembly until the Assembly has been informed of the report on the petition, and the Judge shall in all cases in which such notice has been given report the same to the Speaker.

General  
costs of  
petition.  
Ib. s. 169.

**137.** All costs, charges, and expenses of and incidental to the presentation of a petition, and to the proceedings consequent thereon, with the exception of such costs, charges, and expenses as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the Judge may determine, regard being had to—

- (a) The disallowance of any costs, charges, or expenses which may in the opinion of the Judge have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or the respondent ; and
- (b) The discouragement of any needless expense by throwing the burden of defraying the same

1915.

*Elections Act.*PART VIII.—  
ELECTIONS  
TRIBUNAL.

on the parties by whom it has been caused, whether such parties are or not on the whole successful.

But the total amount of costs which may be ordered to be paid by any one party shall not exceed two hundred pounds.

The costs may be taxed in the prescribed manner, but according to the same principles as costs between solicitor and client are taxed in an action in the Supreme Court of Queensland, and such costs may be recovered in the same manner as the costs of an action, or in such other manner as may be prescribed.

Such taxation shall be subject to review by the Judge.

**138.** (1.) The Judges of the Supreme Court may from time to time make, and may from time to time revoke and alter, general rules and orders for the effectual execution of this Part of this Act, and of the intention and object thereof, and the regulation of the practice, procedure, and costs of election petitions and references, and the trial thereof, and the certifying and reporting thereon.

Rules of  
Court.  
Qland.  
s. 170.

Any general rules and orders made as aforesaid shall be of the same force as if they were enacted in the body of this Act.

Until any such general rules and orders are made the Judge may give such directions in any case as may be necessary or expedient, and any such directions shall have the same effect as a general rule or order.

Any general rules and orders made in pursuance of this section shall be laid before Parliament within three weeks after they are made, if Parliament is then sitting, and, if Parliament is not then sitting, within three weeks after the beginning of the then next session of Parliament.

If an Address is presented to the Governor by either House of Parliament within thirty days next after any such rules or orders are laid before Parliament, praying that any such rule or order may be annulled, the Governor in Council may by Order in Council annul the same; and the rule or order so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may have been taken under it in the meantime.

(2.) All general rules and orders made under Part VIII. of the Acts hereby repealed shall be deemed to have been duly made under this section, and shall apply accordingly.